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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1251st MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Ninth periodic report of Israel (continued)

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The meeting was called to order at 10.15 a.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Ninth periodic report of Israel (CERD/C/294/Add.1; CERD/C/52/Misc.8/Rev.1) (continued)

1. At the invitation of the Chairman, the Israeli delegation took places at the Committee table.

2. Mr. NOBEL said he would appreciate clarification of the situation of Israeli citizens of Ethiopian origin and mentioned the case of the Falachas, who complained that the blood they donated had been rejected on the grounds that it was contaminated by the AIDS virus. Furthermore, it appeared that 10 per cent of suicides among young Israeli soldiers were recruits of Ethiopian origin who accounted for only 1 per cent of the army's strength. Surely that suggested that the persons in question were subjected to pressure. Had steps been taken to remedy the situation?

3. The term "demographic balance" was often used to express the objective of reducing the Arab population in certain areas. Was that an official policy? In any event that embarrassing expression, without suggesting the idea of ethnic cleansing, implied ethnic reduction.

4. In May 1997, certain shops in Jerusalem had sold black T-shirts bearing the names of the towns of Hebron, Nazareth, Ramallah and Jerusalem and the words "Wherever you mess with us, you will be chopped liver". It was easy to imagine the sort of atmosphere in which young Palestinians lived and how easy it was to recruit terrorists among a population - half of which was under 15 years of age - that was grappling with a difficult economic situation, a shortage of housing, provocation and constant humiliation. In that connection he referred to the case of a young girl who had been forced to strip completely in the course of a frontier check. The Government should do everything possible to ensure peace, justice and equality for all. Was that too much to expect?

5. Mr. GARVALOV welcomed the presence of Mr. Lamdan, Ambassador of Israel, on the delegation. The report of Israel was interesting, and although it was impossible to agree with some of the points it made others could be accepted. In any event, he was of the view that Mr. Banton had presented an excellent analysis of the situation in Israel and considered that if the State party paid more attention to the question of equality for all Israeli citizens many of the difficulties being encountered would be overcome.

6. Contrary to what Mr. Sabel had stated at the previous meeting, he took the view that Israel was not being treated harshly by the Committee but in the same way as all other Member States. He recalled that, in August 1997, the Committee had decided it would no longer consider the situation in Israel in terms of the prevention of racial discrimination, early warning measures and urgent action procedures. That was why the periodic report of Israel

(CERD/C/52/Misc.8/Rev.1) was now being considered on the basis of the normal procedure, namely, under article 9 of the Convention. The Committee rarely took a decision of that nature.

7. He recalled, as Mr. Sabel had done at the previous meeting, an incident that had occurred before the beginning of the Second World War, namely, of a vessel carrying European Jews - Germans for the most part - who had decided to leave their country. All the ports at which the vessel called in Argentina, Uruguay, Venezuela, Cuba and the United States - and in the latter case to President Roosevelt's great embarrassment - had refused to allow its passengers ashore.

8. Reverting to the report, he said it was his impression that the State party had not acted as energetically as it should have done to curb racial discrimination under articles 2, 1 (c) and (d), 4 and 7 of the Convention.

9. It was stated in paragraphs 18 and 19 of the report that the Supreme Court had frequently ruled on the impermissibility of racial discrimination. Yet that was not enough to ensure the full implementation of the articles to which he had referred. Paragraph 28 stated that the initial emphasis in Israel was placed on preventing discrimination by governmental or public bodies of any kind and that such discrimination was at present illegal. He wondered whether that statement was optimistic rather than a reflection of reality. Moreover, in paragraph 50 it was stated that there was an undeniable gap between the Jewish majority and the Arab minority as regards the standard of living and involvement in national affairs. The reasons given in that paragraph were plausible, but it could well be asked whether the situation could not be improved by the political will to promote understanding, tolerance and equality.

10. He would like to know what was meant by the statement made in paragraph 55, that universities, post-secondary level colleges and specialized technical schools were fully integrated. Were they really integrated, in the positive sense of the term, or was the situation one which was likely to lead to assimilation? Was Arabic used in higher educational establishments?

11. He would appreciate additional information on how article 7 was being implemented in Israel. Did school programmes include instruction in racism and racial discrimination? Was the Convention studied in secondary schools and higher educational establishments? In that connection he quoted paragraph 57 of a report by the ADALAH organization (Legal Centre for the Rights of Arab Minorities in Israel) concerning violations of the Convention, according to which the Ministry of Education had failed to take steps to inculcate in students the value of measures to curb racism. He hoped the delegation would comment on that statement. Lastly, article 5 (d) (ii) proclaimed the right to leave any country, including one's own, and to return to one's country. What was the situation of Arabs who had previously lived in Israel and were no longer able to return to their country?

12. Mr. YUTZIS said that he found the Committee's dialogue with the delegation satisfactory. In connection with the implementation of article 5 of the Convention, he referred to paragraph 50 of the report according to which there was an undeniable gap between the Jewish majority and the Arab

minority as regards living standards and involvement in national affairs. That situation was justified by arguments of a strategic or political nature, namely, the internal security situation, and by the fact that Arabs did not perform military service. Yet the State could influence the internal situation and modify conscription conditions. However, the possibility of finding themselves face to face with their fellows was hardly likely to induce Arabs to join the army as volunteers.

13. The explanation that a large proportion of Israeli Arabs lived in villages where they engaged in traditional forms of agriculture which had an impact on their levels of living and participation in national affairs gave the impression that it was for the Arabs to improve their lot, whereas it was the State's duty to improve the quality of life of its citizens. He hoped that the next report would describe the measures that would be taken to narrow the gap between the Jewish majority and the Arab minority.

14. With reference to the implementation of articles 6 and 7, he asked how far laws and regulations concerning public life were published in Arabic. What proportion of private television stations broadcast in Arabic? Similarly, how many FM radio stations broadcast in Arabic?

15. There was no hiding the existence of a number of religious and political fundamentalisms and in particular of Jewish fundamentalism. In his view, fundamentalism was the result of a psychological attitude and not the interpretation of political or religious texts. He drew attention to the tribute paid by the State of Israel to fundamentalism with the assassination of Yitzhak Rabin. How did authorities responsible for controlling fundamentalist movements function? Lastly, he recalled that the Committee had, in considering the implementation of the Convention in all States, invariably proved itself to be extremely vigilant about anti-Semitism, and had formulated a general declaration on the terrorist attacks that had occurred in the United Kingdom and Argentina. That demonstrated the Committee's even-handedness in the fulfilment of its mandate.

16. The CHAIRMAN speaking as a member of the Committee, emphasized that great care should be taken in using the term fundamentalism. Persons who committed crimes or participated in massacres could not be described as fundamentalists; it was terrorists and criminals who should be regarded as such.

17. Mr. DIACONU said that Israel's efforts to curb discrimination were to be commended and encouraged.

18. However, it was unfortunate that the statistics presented at the beginning of the State party's report made a distinction only between the total population and the Arab population. That simplistic presentation was a very poor reflection of reality, especially as in the following paragraphs specific reference was made to Ethiopians, Druze, etc.

19. He found it particularly gratifying, as a Romanian, that Israel had announced the adoption of a new labour law that protected the rights of

foreign workers. According to certain reports, Romanian workers in Israel had been victims of abuses - in some cases involving brutality - committed by Israeli or foreign employers.

20. He agreed with Mr. Garvalov that Israel's laws on racial discrimination, with the possible exception of the Penal Code, were not very explicit. Moreover, it was significant that the report mentioned only case law but no specific laws. Nor did it contain any declaration by the Government concerning the elimination of racial discrimination. The only declaration referred to was the one establishing the State of Israel, which was quoted in paragraph 3. Israel must remedy that situation without fail. Peace would eventually have to be made with the Arabs and the State party should make the necessary preparations, both in terms of legislation as well as education. Contrary to what was stated in paragraph 30 of the report, norms prohibiting racial discrimination should apply not only to the public sector but also the private sector.

21. With respect to education, it would be useful to know whether Israel had sufficient public schools offering education in Arabic and whether Arab culture was safeguarded in school programmes. He noted that there was no higher education in Arabic; that was extremely unfortunate in the medical sphere, for example, where it gave rise to problems of communication between practitioners and patients. Lastly, he was of the view that a sustained educational effort should be directed at judges, police officers and the population at large.

22. Mrs. SADIQ ALI said that, as most of the questions she had intended to put to the Israeli delegation had already been asked by previous speakers, she would simply request clarification of a few specific points.

23. According to information published in Dubai in August 1997 by an Indian press agency, the Israeli Prime Minister had been accused by the Palestinian Authority of authorizing Israeli pharmaceutical companies to test dangerous drugs on Palestinian and Arab prisoners. Could the representative of Israel provide any explanations of that allegation?

24. Another point on which she would appreciate additional information was the status of Israelis of Bene origin, who had come from India. It appeared that orthodox rabbis did not regard them as fully-fledged Jews and for that reason refused to consecrate their religious marriages. What was the actual situation?

25. As regards health matters, she had been informed that a Palestinian woman living in Ramallah had been unable to have her father, who was suffering from a heart condition, cared for in East Jerusalem and had been obliged to take him as far as Jordan. Had that been the case and what was the Government's policy regarding access to Israeli hospitals?

26. Reverting to a more general context, she recalled that the sealing-off of Palestinian territories constituted a violation of articles 3 and 5 of the International Convention on the Elimination of Racial Discrimination and that

a recent United Nations report confirmed that such measures had a disastrous impact on the levels of living of the Palestinian population and on employment.

27. B'Tselem, the Israeli Centre for human rights information in the occupied territories, itself recognized that the Israeli authorities pursued a discriminatory policy with respect to Palestinians, such discrimination being of a systematic nature in the case of housing and the occupation of land. Could the representative of Israel explain why the Israeli Government's decision of 1996 officially recognizing seven Arab villages in the Megev had never been applied? In the case of unrecognized Arab villages, was there no solution other than that of evicting the inhabitants from their homes by force?

28. Some of the information contained in Israel's report also deserved comment. How did the State party explain differences in the infantile mortality rate of the Arab population and the Israeli population, as well as differences in school attendance rates and housing conditions?

29. Paragraph 50 of Israel's report explained that the difference between the standard of living of the Jewish majority and that of the Arab minority was due in part to the fact that very few Arabs joined the army and therefore forewent many of the advantages connected with the performance of military service. Were not such advantages a form of discrimination?

30. She would also like to know what was the connection between a person's profession and place of residence and his possibility of enjoying his fundamental rights to the full.

31. Mr. SHAHI said that as the questions put to Israel by the Country Rapporteur, Mr. Banton, were both very comprehensive and pertinent, he would simply highlight some of them.

32. The method of issuing building permits in Jerusalem, which was the subject of Mr. Banton's question 3, was in his view a flagrant example of discrimination.

33. Moreover, referring to Mr. Banton's question 4, he asked whether the 1985 amendment of the Basic Law barring from electoral lists parties which did not expressly recognize "the State of Israel as the State of the Jewish people" was not tantamount to excluding from politics all parties that argued in favour of equality between Jewish and Arab citizens.

34. Why, Mr. Banton had asked in his question 6, was the representative of the State of Israel not "certain" that the question of the right of return of Palestinians previously driven from their homes was covered by the Convention?

35. He too would like to know whether the Equal Opportunities in Employment Act was at present effectively enforced and would appreciate additional information on the remedies available to persons whose economic and social rights had been violated as well as on the compensation they received in accordance with article 6 of the Convention.

36. On the question of the occupied territories, the Committee rejected Israel's argument that it did not have to discuss the economic and social situation prevailing in those territories in its report since it was not responsible for it. So long as Israel maintained its presence in the territories, the "lack of jurisdiction" argument was inadmissible. He recalled in that connection that the settlements were not only illegal but constituted an obstacle to the peace process. Those facts were indisputable.

37. In the matter of housing, it was quite obvious that new construction in the occupied territories should be accessible to all without distinction as to ethnic origin and that the system of issuing residence permits to the Palestinian inhabitants of East Jerusalem constituted a form of discrimination against the Arab population. He would like to know whether the practice of razing Palestinian houses on the pretext that their owners had not obtained building permits was continuing in Jerusalem or elsewhere.

38. Furthermore, as Mr. Banton had asked in his question 17, why were Palestinians denied access to certain highways when their land had been confiscated so that they could be constructed? How were they prevented from using such highways? Lastly, the activities of certain religious groups whose doctrine was based on ethnic origin were contrary to the Convention and obstructed the peace process. How did Israel explain that such activities were tolerated?

39. Mr. SHERIFIS said that in paragraph 7 of its report the State party took pride in being an open and multicultural society. Had it therefore taken steps to have the objectives of the Convention widely publicized in Israel and made known to the population at large? Moreover, did Israel intend to make a declaration under article 14 and participate in the expenses of the Committee, as provided for by the amendment to article 8, paragraph 6? He explained that he put that question to all delegations as a matter of course, but requested the Israeli delegation to take note of it, had it not already done so.

40. One question that was particularly important to him concerned the rights of displaced persons and refugees in occupied territories - regardless by whom they were occupied. Everyone no doubt remembered the Exodus episode, which had illustrated the Cypriot tradition of hospitality and humanity.

41. In that connection, perhaps the Israeli representative could explain why his country, which said it respected international humanitarian law, claimed the right to apply the fourth Geneva Convention de facto and not de jure.

42. He wished to revert to the judgement of the European Court of Human Rights in the Louzides v. Turkey case, referred to at the previous meeting by Mr. van Boven. There was an obvious parallel between that case, which concerned a Greek Cypriot who claimed the right to return to his house in northern Cyprus from which he had been evicted by the Turkish occupying forces, and the situation of the Palestinians. It was particularly interesting to note that the European Court of Human Rights in its judgement had rejected the Turkish Government's argument that it was not responsible for the violations committed since it exercised neither effective control nor jurisdiction over the northern part of Cyprus where the property of the plaintiff was situated. According to the Court, its argument was refuted by

the active presence of a large number of Turkish troops in the region. That indirectly answered Mr. Banton's question 14, namely, "If the Israeli Government is unwilling in its periodic reports to cover implementation of the Convention in the occupied territories, does that not make it appropriate for the Committee to consider such questions under its procedure for the prevention of racial discrimination?" In his view the reply was yes. Moreover, the reply would have been the same in respect of any other State party in a similar situation and should not be interpreted as a hostile stand against Israel, with which he wished to establish a useful dialogue.

43. Mr. SABEL (Israel) said he would endeavour to reply to the various groups of questions put by members of the Committee, most of which had dealt with Israel's Arab and Ethiopian minorities and the question of refugees and displaced persons. The question of refugees was the subject of political negotiations between Israel and three adjacent countries. It was an extremely complex problem involving large numbers of both Arabs and Jews to which the Israeli authorities were giving a great deal of attention. In that connection he said it was unfortunate that, at the previous meeting, Israel had been the target of an out and out political diatribe which was quite uncalled for in the Committee.

44. Since the Arab minority was exempted from compulsory military service, the Israeli authorities intended to introduce compulsory national civil service for that minority which they could perform in the hospitals, for example.

45. On the question of building permits, he said that the Municipality of Jerusalem had granted 2,991 of the 3,487 applications examined in 1996 and 1997. It had approved 75 per cent of applications for projects in Arab neighbourhoods and 90.3 per cent of applications in Jewish neighbourhoods. In 1997 it had issued 29 orders for the removal of illegal construction; of that number only one had been carried out in Arab neighbourhoods and six in Jewish neighbourhoods. He added that the authorities compensated the owners of houses that were demolished in the public interest, but only if their construction had been authorized.

46. It was very difficult to control racist propaganda on the Internet owing to the existence of a legal vacuum that was explained by the nature of that medium. However, the offence should be covered by the provisions of the Penal Code that made incitement to racial hatred punishable.

47. As regards body searches of Arab women, he explained that, under the regulations, women could be searched only by other women, and only if it was absolutely necessary to do so. The participation of men would constitute an extremely serious offence and they would certainly be prosecuted by the military authorities.

48. Torture was illegal. Israel was a party to the Convention against Torture, respected the obligations it had assumed and would submit its periodic report to the Committee Against Torture on 16 May 1998.

49. With respect to the behaviour of members of the armed forces professing extremist religious beliefs, he explained that the army was subject to

military regulations that alone should dictate their conduct, to the exclusion of any personal beliefs. The army also provided training in humanitarian law with the assistance of experts from the International Committee of the Red Cross. Moreover, the principles of non-discrimination as well as human rights were taught in the public schools as well as in the police and the army, where they constituted a compulsory subject.

50. In reply to a question concerning a party that advocated that Israel should be the land of all its citizens, he referred to case law on the subject, explaining that in the past a court had decided, by virtue of Basic Law: Knesset, that a party which, in its platform, propounded the idea that Israel should not be the land of all Jews but that of all its citizens, could indeed participate in the elections.

51. Referring to the question of violence against Arab women, he said that unlike marriage and divorce, which were governed by religious law, cases involving domestic violence were handled by the civil courts in accordance with the Penal Code. In 1996, 13,600 complaints of spousal abuse had been brought by Jewish women and 1,367 by Arab women. Moreover, 1,972 complaints of sexual offences had been brought by Jewish women and 117 by Arab women. The police were resolutely combatting "honour killings", which were current among the Arab population, by recruiting specialized personnel and organizing suitable courses and training sessions. The Supreme Court had repeatedly condemned that practice, reaffirming that its perpetrators should be severely punished. The funds made available to curb violence against women, regardless whether they were Jewish or Arab, had more than tripled and the budget for help centres meeting the needs of both Arab and Jewish women had septupled. Of the 12 shelters for battered women, one took in only Arab women and the 11 others accepted both Arab and Jewish women. There were two "halfway houses" for Arab women and girls, and 20 of the 100 social workers were Arab. Moreover, 2 of the 11 hotlines in Israel were for the exclusive use of Arab communities.

52. He explained that the fact that so few decisions had been taken by the High Court of Justice on complaints of discrimination by the administration was explained by the device used by the Government in disputes pitting it against individuals. On the advice of the Attorney-General, the Government immediately opted for an amicable arrangement if the outcome of possible legal proceedings appeared to be uncertain. He also explained that the reason why the report mentioned only the decisions of the High Court of Justice and completely disregarded these of the ordinary courts was that the High Court supervised all judicial authorities and institutions, including the Attorney-General, the police, the security services and the army.

53. He recognized that, in practice, military service might well create a gulf between Arabs and Jews without there being any deliberate desire to create discrimination. Insofar as the army provided its recruits with advanced scientific and technical training and thereby knowledge that was subsequently useful in their careers, the Arabs, not being required to perform military service, were at a disadvantage as compared with the Jews. However, it was forbidden by law to invoke military service as a reason for intentional

discrimination in employment matters. In that connection, employers could not demand qualifications, particularly of a military nature, that were excessive or unrelated to the job in question.

54. As for discrimination against Arabs who wished to become members of the Kalsir community, he explained that the question was rather complex since the community was a cooperative whose members chose the newcomers they desired. The High Court of Justice was examining the question and could urge the parties to adopt a compromise solution.

55. He also explained that the State Comptroller was appointed by and reported to the Knesset, and that dual nationality was authorized by the law, all immigrants being allowed to retain their nationality of origin.

56. With respect to license plates, he said that certain imported cars could use their foreign plates for short periods on the understanding that they had to be equipped with Israeli plates if they remained on Israeli territory beyond a certain time limit.

57. As regards what was written on the tombstone of Mr. Batuch Goldstein, a racist murderer, he explained that Israeli citizens could inscribe whatever they wished on the gravestones of their deceased; the State could take any action in such matters only in the case of shrines or public monuments.

58. He confirmed that Israel indeed had a law of return which did not, however, in any way affect the nationality of Arabs living in Israel any more than it prevented a person from acquiring Israeli citizenship by naturalization. He added that there was no road or section of road in Israel which was closed to any segment of the population and that 3,000 persons were being held in detention for security reasons; 382 of that number were under administrative detention.

59. Referring to the Supreme Court's ruling mentioned in paragraph 27 of the periodic report, he explained that the judge had in fact decided that the right of a person to express his opinion in his own language prevailed over the desire to promote Hebrew. He also explained that the members of Israel's Ethiopian community, whose sociocultural background was very different from that of Israeli society, had experienced a cultural shock which had made it necessary to adopt stopgap measures. It had been in accordance with its general rules that prohibited blood donations by persons belonging to groups at risk that Israel's blood bank had initially decided not to accept the blood donations of Ethiopians, since they had come from a malaria-infected zone. As a compromise measure it had agreed to accept their blood but had decided not to use it, which of course had offended the Ethiopian community. The authorities had not yet found a satisfactory solution to that dilemma.

60. As stated in paragraph 55 of the report, Arabic was the language of instruction in Arab schools whereas in universities it was Hebrew, which was by far the majority language except in certain disciplines such as Arabic literature.

61. The applicability of all the provisions of international humanitarian law in the occupied territories was a legal point that had not been settled in a final and satisfactory manner, mainly because of the existence of the Palestine Authority.

62. The Kahana organizations had been dissolved and could not reconstitute themselves under another name. Unfortunately, it was extremely difficult in practice to apply the law on the subject. In any event, persons inciting racism were brought to book by the authorities.

63. The Equal Opportunities in Employment Act did not apply to persons employing less than six workers so as to enable individuals and families to employ members of their household. An operation employing more than six persons, however, was regarded as an enterprise under the law, in which case the provisions prohibiting discrimination in employment were applicable. Disputes concerning employment were heard by the labour courts.

64. In accordance with its general policy, the Israeli Government did not build low-cost housing although it provided mortgage loans to its citizens, both Jews and Arabs, without any distinction.

65. The increase in the Arab population, which had grown from 300,000 to 1.2 million, proved that the Israeli authorities were not trying to reduce its size. Moreover, the Government was endeavouring to promote equality between communities.

66. The text of the Convention and the Committee's conclusions were published in the Official Gazette in Arabic and Hebrew, and were accessible to all.

67. All drugs were labelled in Hebrew, English and Arabic.

68. In conclusion, he emphasized that Israel was an open society in which information circulated freely, thereby actively promoting democracy.

69. Mr. ZAKEN (Israel), elaborating on some of the shorter replies given by Mr. Sabel, said that the episode of the blood donated by Israelis of Ethiopian origin had created such a scandal that the public had even called for the resignation of the head of service responsible. He added that one unexpected consequence of that incident had been the election of an Israeli of Ethiopian origin as a Labour Party deputy. He noted that another population group, namely, the inhabitants of "unrecognized villages" had caught the attention of the Committee. He took exception to the use of that expression since the people in question were dispersed groups of nomads and Bedouin who were settling down. The figure of 10,000 nomads in the northern part of the country given the previous day was excessive, for in point of fact there were 400 families totalling 3,000 persons in all. During the previous 25 years, 60,000 inhabitants had gradually settled in 7 Bedouin villages having the necessary infrastructure, and he added that it was difficult to provide infrastructure for nomadic populations. He categorically refuted the fanciful statement made the previous day that the Bedouin were being forced to settle down; not a single one had been forced to do so. At the present time four new communities were being created for the Bedouin of the south.

70. Israel was not being outdone in efforts to curb domestic violence and violence against women. Only the previous day a Conference organized by his office had been held in Haifa in the presence of the Deputy Prime Minister. It had been attended by 400 Arab women active in politics, research and social work and by an eminent expert in Islamic law, who had explained why violence was unacceptable under that law. The purpose of the Conference, which had been sponsored by the Government, had been to improve the condition of Arab women in Israeli society and to launch a campaign - complete with stickers and a hotline - with that in view.

71. A large number of questions had dealt with the subject of access by Israelis of Arab origin to education. He corrected the false idea that a person had to do his military service before he could obtain a scholarship from the Ministry of Education. Not only was military service not a sina qua non, but scholarships were granted on the basis of other criteria such as the candidate's resources or level of education. A Jewish student who had done his military service did not automatically obtain a scholarship, whereas many Arab students had been granted one by the Ministry or a university. He himself was chairman of a scholarship committee which each year granted about 100 scholarships only to Arab students.

72. Moreover, any Bedouin who in future applied for a higher education scholarship would certainly get one. He was also in a position to reassure the Committee about the proportion of the education budget allocated to each community; the Arab population was even at an advantage at the secondary level, where Arab students accounted for only 20 per cent of the student body but received more than 30 per cent of the budget. As for the status of Arabic in Israel, he explained that, although university instruction - apart from literature courses - was not in Arabic, the level of Arab history, culture and civilization courses was extremely high in the five major Israeli universities and therefore attracted Jewish and foreign students. The human rights discipline was extremely well developed at the university level. As a professor at the Hebrew University of Jerusalem, he personally had a large number of Arab students who took an interest in the human rights situation in various countries, including Egypt, although oddly enough none of them had elected to concentrate on the situation in Israel.

73. One of the Committee's concerns was the number of Arab citizens in the public service and, referring to figures, he demonstrated that their presence was far from negligible. About 20,000 persons of Arab origin were employed in various ministries, 15,000 of them by the Ministry of Education, in which they accounted for roughly the same proportion of their community as Jewish teachers. In addition, hundreds if not thousands of Arab citizens were employed by NGOs who were subsidized by public funds. Moreover, in order to increase the number of Arab citizens employed by the central administration, a quota had been established for its recruitment of Arab graduates. As for the obstacle to integration represented by official holidays, he explained that civil servants were entitled not only to official Israeli holidays but also to those of the Muslim, Christian or Druse communities.

74. The Committee also wished to know to what extent Arab citizens participated in the media and benefited from them. Although the number of Arabs employed by television and radio stations broadcasting in Hebrew was

rather low - although a few occupied high posts - they constituted the majority of the staff of radio and television stations broadcasting in Arabic. In that connection he corrected another false idea presented the previous day that interviews of Arab personalities dealt only with Arab affairs. In point of fact, Israelis of Arab origin participated in discussions in Hebrew as well as in Arabic on a wide variety of subjects. Furthermore, thanks to cable and satellite television, the Arab population could watch the televised programmes of any Arab country.

75. Some members of the Committee had expressed concern about the security of Arabs and had suggested that it was protected to a lesser degree than that of the Jewish population. That was yet another false idea. The Arabs, who tended to live together in small villages peopled exclusively by Arabs, in fact and in general enjoyed greater security than the Jews who, for the most part, lived in the large towns and were particularly vulnerable. He added that additional police stations had been opened in Arab neighbourhoods during the previous two years.

76. Mr. BANTON (Country Rapporteur) recalled that, when the Secretary-General had invited Governments to present their observations on the report of the independent expert, Mr. Alston, on enhancing the effectiveness of the human rights treaty system (E/CN.4/1997/74), Israel had, in its reply, recommended that all treaty bodies should adopt the practice, introduced by some of them, of providing States parties with the questions prompted by their reports well before the actual report was considered. Those members of the Committee who had questioned the wisdom of that practice would have been convinced that they were right during Mr. Sabel's presentation of the report of Israel the previous day. The Committee had often had occasion to confirm the maxim of Roman law that nobody could be a judge of his own actions; delegations often arrived persuaded that their Government was in the right and were reluctant to admit that those who expressed a different opinion were not necessarily partial.

77. When, at the end of their meeting the previous week, the Chairmen of treaty bodies had presented their conclusions to the representatives of some 70 delegations, they had realized that the report preparation system created a number of problems for State parties and that one of the ways of facilitating their task would be to formulate conclusions based on the consideration of their reports in a more precise manner so that they would be useful in the preparation of subsequent reports. In Israel's case, the Committee might, after having taken the time necessary to determine to what extent the replies to its questions were satisfactory, decide to indicate in its conclusions the type of dialogue it would like to establish, to request Israel to combine its tenth and eleventh reports in a single document, to draw the attention of the State party to the need to take into account the Committee's guidelines for the preparation of reports and its recommendations, to encourage it to develop its policy for the integration of Arab populations and to assure them of equality of treatment in respect of each of the rights proclaimed in the Convention, and to request it for facts and figures about public expenditure and the services it provided in order to be able to evaluate to what extent they were proportionate to the size of the ethnic groups who were the beneficiaries. It would probably also try to identify various reasons for inequality of treatment and determine their acceptability and nature, such as

public security, ethnic origin or religious beliefs, and agree on a statement concerning the occupied territories, whose inhabitants had rights that must be protected in accordance with international human rights instruments.

78. The CHAIRMAN assured the Israeli delegation that the Committee had listened to it with interest and respect, although it had not always been convinced. He expressed the hope that better understanding would prevail between the Committee and the delegation during the consideration of the next report, which should fill any gaps in the information provided so far.

79. Showing the same frankness as had been displayed by the Israeli representative who, the previous day, had described certain statements as political diatribe, he said that the Israeli representative had been unduly aggressive and unfair in stating that the Committee treated his country in a different way from other States parties. However, the atmosphere had since become calmer and that was an encouraging sign for the future.

80. He declared that the Committee had thus completed its consideration of the ninth periodic report of Israel.

81. The Israeli delegation withdrew.

The meeting rose at 1 p.m.

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SUMMARY RECORD OF THE 1252nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 5 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. YUTZIS

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Tenth to thirteenth periodic reports of the Netherlands

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GE.98-15467 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Tenth to thirteenth periodic reports of the Netherlands (CERD/C/319/Add.2)

1. At the invitation of the Chairman, Mr. Halff, Mr. Tilmans, Mr. van Bonzel, Mrs. Peterson, Mrs. Kessels, Mrs. de Bode-Olton, Mr. Jacobs and Mrs. Goris (Netherlands) took places at the Committee table.

2. Mr. HALFF (Netherlands) apologized for the delay in submitting periodic reports which in no way detracted from the importance that his Government attached to the Convention and its reporting obligations. The Government did, however, support efforts to streamline reporting obligations under the various human rights instruments.

3. The constitutional structure of the Kingdom of the Netherlands dated back to 1954 when it had been decided by the Netherlands, Suriname and the Netherlands Antilles, which then included Aruba, to establish a new constitutional order under which they would conduct their internal affairs autonomously and in their common interests on a basis of equality. Since then, Suriname had decided to leave the Kingdom to become a State in its own right and Aruba had become a separate country within the Kingdom, with the same constitutional status as the other two countries. Although it was the responsibility of the Kingdom as a whole to guarantee human rights and fundamental freedoms, and the Kingdom as a whole was party to international treaties, it was the responsibility of each of the countries to implement those rights.

4. The Government of the Netherlands was deeply committed to the object and purpose of the Convention. Under the Netherlands presidency of the European Union, and on the initiative of the Government of the Netherlands, the European Union had designated 1997 as the European Year against Racism. A decision had been taken to establish the European Monitoring Centre for Racism and Xenophobia.

5. The elimination of racial discrimination had become an increasingly important political goal in the Netherlands with the gradual appearance of what had come to be termed its "multicultural society". As far as relevant legislation and case law were concerned, the body of laws and court verdicts had steadily grown during the reporting period. In the Netherlands, as in most democracies, there was an inherent tension between the prohibition of racial propaganda and freedom of speech. Political parties that had racially discriminatory programmes were actually prosecuted and prohibited only in extreme cases. In that context he was pleased to inform the Committee that parties with that kind of agenda had been annihilated during the municipal elections on 4 March 1998. Public prosecutors were under instructions to commence criminal proceedings whenever cases of racist utterances occurred.

6. Incentive policies in the socio-economic field during the reporting period showed a mixed picture. The equal economic status of minorities was a long-term perspective, partly because affirmative action could only be used to

a certain extent because of its limited acceptance by the population at large. Many measures had been taken during the reporting period in the field of education, integration and access to the labour market with a view to enhancing the opportunities for and status of minorities in Netherlands society as a whole. The policies worked to a certain extent, but concerns remained, in particular with regard to the socio-economic position of ethnic minorities.

7. The report also described a range of programmes aimed at combating perceptions conducive to racially discriminatory behaviour. He commended the two "shadow reports" that had been drafted by two non-governmental organizations (NGOs) in the Netherlands whose thorough scrutiny of the report of the Government would be of use to the Committee and the authorities themselves.

8. Mrs. de BODE-OLTON (Netherlands), introducing the part of the periodic report of the Netherlands concerning the Netherlands Antilles, referred to the current large-scale movements of migrant labour, characterized by new forms of and increasing ethnic diversity and associated with the transformations in economic, social and political structures in the post-cold war era. Migration had been a very important factor throughout the demographic history of the islands, particularly during the second half of the 1980s.

9. That the Netherlands Antilles had had no specific policy on minorities was based on a tradition that over 40 nationalities lived together in harmony, with a very acceptable level of tolerance. Nor was it felt that an explicit population policy should be given high priority. Therefore, only basic demographic characteristics had been incorporated into national planning processes.

10. Extra regional migration had been dominant in the Caribbean in the latter half of the twentieth century, but simultaneously, a minor but significant intra-regional movement had developed and was continuing. Given the small size and small population of the islands of the Netherlands Antilles, and their vulnerability to external economic forces, migration had had a unique impact on the community as a whole. In the case of St. Martin, the size of the foreign population group had grown faster than the so-called "belongers" group. In 1992, over half of the population living there had not been born in the Antilles. The influx of workers tended to be related to the tourist industry, and fulfilled a need, in terms of planned economic growth, that could not be met by the domestic labour force. In some cases, the growth in the population had overwhelmed certain aspects of planned services and infrastructure. That explained the focus in the report on the islands of St. Martin and Curaçao.

11. She apologized for some statistical inconsistences in the report. Two sets of definitions had been applied to the presentation of statistical data. In some paragraphs and tables in the report, the concepts of Dutch nationals and Aliens had been applied, based on the criterion of nationality, while elsewhere, the concepts of migrants and non-migrants had been applied, based on the criteria of birth and place. In the Netherlands Antilles, the concept

of nationality roughly corresponded to place of birth. To avoid confusion, the delegation would refer to migrants and nationals during consideration of the report.

12. Mrs. PETERSON (Netherlands), introducing the Aruban part of the report of the Kingdom of the Netherlands, said that in order adequately to comply with reporting obligations under international human rights instruments, the Government of Aruba had appointed a Human Rights Committee in 1991. The Aruban report was a product of that interdisciplinary committee.

13. The complex nature of recent migration, the direct result of economic expansion, had somewhat overwhelmed local policy-makers at the outset, a problem compounded by a lack of a systematic and coordinated compilation of relevant data. Since the drafting of the report in 1995, a number of studies and surveys had been finalized to provide policy-makers with an informed analysis. They included studies on the social impact of labour migration since 1986 and the position of foreigners on the labour market. A 1996 report drawn up by the Aruban Social Economic Council had focused on increasing pressure on the public sector, noticeably in the field of education, housing, and infrastructure. The report showed that approximately 88,000 people of 30 different nationalities, of whom approximately one-third were foreigners, resided in Aruba. Aruba had seen a population growth of more than 30 per cent in 5 years.

14. The Labour Force Survey 1994 had found that the overall unemployment rate for Aruba stood at 6.4 per cent. Among the unemployed, approximately two-thirds were Aruban and one-third was non-Aruban. There was a majority of migrants from the region who had migrated to Aruba for economic reasons and a substantial minority from the Netherlands and the United States of America. The first group generally had a low level of education and were found among elementary occupations, while the second group often occupied higher level positions within the community. A vocational training programme had been set up for adults in 1998. the Training for Employment Scheme (Enseñanza pa Empleo) was designed to promote access to employment. Over time, it had become the major adult education institution for immigrants with a limited level of education.

15. The influx of foreign workers led to a considerable housing shortage. The Government had set up a National Housing Plan (Plan Nacional di Vivienda) in 1995 under which approximately 5,800 people seeking housing had been registered, of whom 60 per cent had been born in Aruba and 40 per cent elsewhere. In San Nicolas, 45 per cent of all men and 55 per cent of all women had migrated to Aruba at some point in their lives. The 1996 report of the Social Economic Council had warned against the danger of the formation of ghettos as a result of the high concentration of migrants in certain areas.

16. Recent immigrants had a predominantly Latin background. Aruba schools and teachers were thus increasingly confronted with migrant children who spoke neither Papiamento nor Dutch, which was still the official language of instruction in schools. Department of Education studies on the link between the language spoken at home and school performance showed that the majority - non-Dutch-speaking students - were at a disadvantage. The phenomenon was commonly referred to in Aruba as "the language problem". Models had been

developed for language instruction in primary schools that better reflected the socio-linguistic reality of modern Aruba. The Department of Education ensured that any new educational material was not discriminatory with regard to any group of people. Since 1990, the teacher training college (IPA) had given special attention to training teachers for multicultural education, aspects of which were included in all components of curricula. Many schools placed particular emphasis on the theme of multiculturalism and respect for and tolerance of the rights of others. The governmental Human Rights Committee and NGOs were often asked to give presentations in workshops in schools. Upon their return to Aruba, the members of the delegation of Aruba would be meeting with students of a secondary school to discuss the Convention, the report and the Committee's recommendations.

17. Mr. DIACONU (Country Rapporteur) welcomed the composition of the delegation of the Netherlands, proof positive of the State party's willingness to enter into a dialogue with the Committee. The report of the Netherlands provided ample information pertaining to implementation of the Convention and gave the impression that sustained efforts were being made by both the State and civil society on legislative and administrative fronts. The report gave a picture of a mature society that took account of social developments and did all it could to pinpoint and foresee problems and find solutions to them. Successive Governments had ensured the continuity of efforts to eliminate racial discrimination, which had a positive impact on implementation of the Convention. The concept of a multicultural society and its consequence, intercultural education, reflected a constructive long-term approach conducive to respect for cultural identity. Measures to ensure proportional participation of ethnic groups on employment, the army and the police testified to a willingness to take special measures to ensure the advancement of certain ethnic or racial groups, in accordance with the provisions of article 2, paragraph 2 of the Convention. It was also gratifying that the State concentrated activities to ensure equal rights and create conditions conducive to the elimination of discrimination at the local level, that associations of minorities were involved in formulating and implementing many programmes targeted at them and that civil society as a whole was actively involved. The level of involvement could be seen from the many codes of conduct and arrangements with employers, schools or other institutions to promote a policy for minorities or encourage tolerance. He asked whether the codes of conduct and arrangements that were not legally binding were having the desired effect and, if not, whether the State itself then took the necessary measures to rectify the situation.

18. The table in paragraph 113 of the report did not provide data on the population as a whole, according to ethnic origin. Clarification was needed of the term "immigrant", which could lead to confusion, whether it related to people who did not have Netherlands citizenship and whether it included people who had obtained Netherlands citizenship but belonged to different ethnic groups or were of a different national origin.

19. Likewise, the thirteenth report made no mention of the Frisian minority in the Netherlands, although it numbered some 400,000 persons and had some degree of linguistic and cultural autonomy.

20. The report, was more than seven years overdue. Many paragraphs seemed to have been drafted in 1992 or 1993. For example, paragraph 72 presented the results of the 1990 local government elections, although there had certainly been other local elections in the Netherlands since that date.

21. The concentration of a large part of the country's minorities in four large cities inevitably had an impact on urban policy concerning employment, education, security and social services, but also in the fight against racial discrimination. The thirteenth report also gave an account of policies regarding immigration, reception and integration, newcomers and women from minority groups. Those policies would be judged by their results, especially as concerned compliance with article 5 of the Convention.

22. As to legislative provisions, the Constitution and the Criminal Code referred solely to the prohibition of racial discrimination, but the term "race" had been interpreted broadly and also included ethnic origin. The 1994 Equal Treatment Act, which strangely enough had not been mentioned in the thirteenth report, employed the term "nationality", which appeared after "religion", "political opinion", "race" and "sex". Given the logic of that enumeration, he was tempted to interpret "nationality" as meaning "national origin", and not "citizenship". He sought clarification as to what was meant by nationality in that context.

23. He also asked for further information on the drafting of paragraphs 4 and 5 (b) of section 2 of the General Rules providing protection against discrimination (Equal Treatment Act). The English translation implied that racial discrimination was not prohibited when a person's racial appearance was a determining factor; yet it was precisely in such cases that it should be. In a letter to Mr. Banton, the Netherlands Ministry of Internal Affairs had explained that exceptions were permitted under the Equal Treatment Act for cases in which an actor or singer of colour was needed. He did not see why such an exception was made, because it made the text less clear. He welcomed the fact that the legislation was to a large extent based on the commentary of the Human Rights Committee concerning non-discrimination.

24. As to article 3 of the Convention, the report referred solely to the condemnation of apartheid and the Netherlands policy in that regard, whereas article 3 also condemned racial segregation and called upon States to prevent, prohibit and eradicate all practices of that nature in their territories.

25. Paragraphs 196 and 197 of the thirteenth report noted the emergence of all-black and all-white schools. The report distributed by the Netherlands National Bureau against Racism likewise touched upon segregation in schools, above all in urban neighbourhoods, as the result of housing discrimination and the desire of certain Dutch parents to send their children to more distant "white" schools. A way must be found to stop and reverse that trend, which was not unique to the Netherlands, so as to forestall the creation of ghettos.

26. Concerning the implementation of article 4, he noted that the anti-discrimination guidelines for the police and the Public Prosecutions Department were based on the principle that all violations of the anti-discrimination provisions were subject to criminal prosecution and that the use of a political party as a forum to disseminate racist propaganda did

not shield it from prosecution. In a number of cases, however, NGOs had argued that the police should play a more active role and be more alert to cases of racial discrimination and that the Public Prosecution's Department should institute prosecution without delay and reach conclusions more rapidly. The November 1997 Den Bosch case had been cited, which apparently had been similar to the one considered by the Committee in March 1993 in the framework of the procedure under article 14, also involving the Netherlands; in the Den Bosch case, residents of a Utrecht neighbourhood, in an initiative organized by supporters of a right-wing extremist group, had prevented a Somalian family from occupying a flat that had been allocated to it inexplicably, the prosecutor had decided that criminal proceedings should not be instituted. In the 1993 case, the Committee had recommended that the Netherlands Government should "take diligent action". It was incomprehensible that the prosecutor should have dropped the case. Also, in summer 1996, a family from Suriname had been intimidated and forced by violence to leave a flat in Utrecht. The prosecutor had procrastinated before instituting criminal proceedings, which were still pending.

27. The Netherlands National Bureau against Racism was also of the opinion that the Government should take action to disband the Democratic Centre Party, which openly engaged in racist activities and displayed Nazi symbols and whose utterances were disseminated in the media. In December 1997, the Minister of Justice had apparently announced that the disbanding procedure had begun. The above cases were of direct relevance to the implementation of article 4 of the Convention.

28. The reports of a number of NGOs indicated that complaints of acts of discrimination were on the rise and that, for example, there had been 700 in Amsterdam in 1997, 84 more than in 1996. According to other reports, the number of violent racist incidents annually had increased from 250 to 1,000 over the previous five years. The situation was therefore alarming; the Committee asked the Netherlands delegation to comment.

29. As to article 5 of the Convention, there had been reports of a bill to make it mandatory for newcomers in the Netherlands to attend an integration programme and that citizens from the European Union, the European Economic Area, the United States and Poland were exempt, whereas persons from Aruba and the Netherlands Antilles were not. That constituted not only unequal treatment of foreigners depending on their country of origin but discrimination against citizens of the Netherlands from Aruba and the Netherlands Antilles. He asked the Netherlands delegation for clarification on that point.

30. A number of NGOs had expressed concern that new legislation authorizing identity controls was being used in a discriminatory fashion.

31. As in other countries, unemployment was a major problem in the Netherlands. Acknowledging that the unemployment rate among minority groups had increased by as much as 40 per cent and was now four times the national average, whereas it had long remained stable for the rest of the population, the report stated that the Netherlands Government had instituted programmes to ensure that minorities were hired in keeping with their proportion of the overall population. According to a number of NGOs, however, those programmes

had not been very effective. Affirmative action to help integrate ethnic minorities into the armed forces had not been successful, and persons from minority groups hired by the police often did not hold their jobs for long. The report openly recognized that discrimination, whether deliberate or not, continued to be a factor in the high unemployment rate among minorities. A 1997 report on the Netherlands by the International Labour Organization (ILO) had come to the conclusion that persons from minority groups were employed in lower-paying jobs and were more exposed to dismissal, even when they had the same qualifications as others. Discriminatory hiring practices persisted. Could the Netherlands delegation inform the Committee of the results of its past programmes and the measures which the Government intended to take in the future in that area?

32. What were the initial results of the implementation of the 1994 law requiring businesses employing more than 35 persons to draw up an annual report of the number of members of minorities on their staff? He referred the Netherlands delegation to the 1995 ILO report, which discussed discriminatory hiring practices against immigrant workers and ethnic minorities in the Netherlands.

33. The Committee noted with interest the measures taken to recruit minorities in the fields of health care, social security and child care.

34. Discriminatory housing practices reputedly also persisted. Could the Netherlands delegation provide information on the outcome of policies applied to date and what action the Government planned to take in the future to prevent discrimination in that area?

35. He was surprised to read that the 1968 Caravan Act, which was clearly discriminatory against itinerants, had still been in force in 1996. Had the act been withdrawn with effect from 1 January 1997, as indicated in paragraph 131 of the report? How many itinerants were there in the Netherlands, and what was their status?

36. The report noted that there was a perceptible gap between the health of members of minorities and the rest of the population. He stressed that consideration should be given to granting access to health care services to illegal immigrants, especially women and children.

37. Concerning education, the report did not provide much information on the literacy level of various population groups. Had the necessary framework been created so that Turkish and Arabic could be taken as examination subjects? Were classes held in those languages? Were textbooks available? Who taught those classes? Regarding higher education, what were the results of the measures referred to in paragraph 172 to ensure greater access by minority students? He noted with interest the efforts to prepare minority children for education with the involvement of their parents (paragraph 178).

38. In respect of article 6 of the Convention, the report stated that victims of discrimination could apply to the civil courts for compensation. Had there been any such cases, and how had they been decided? The Committee had expected information on the Equal Treatment Commission created in 1994 by the Equal Treatment Act, because that body could play a vital role in

combating discrimination. The Commission had already received more than 300 complaints between 1994 and 1995, of which 185 had been judged admissible and 25 related to racial discrimination. The powers of the Commission appeared to be limited to the area of private law, and it could only receive complaints on the basis of the 1994 Act. Should not its powers be extended to all cases of unequal treatment and racial discrimination?

39. The Netherlands authorities had a highly developed programme to alert the population to the issue of discrimination. He had noted with interest the measures taken by the authorities in response to racist and discriminatory utterances on the Internet. A complaints department had been created in 1997. A number of complaints had been received, and the broadcasts in question had been removed. A plan of action entitled "more colour in the media" had been launched; perhaps it would be useful to start another initiative on "less racism in the media".

40. Turning to the part of the report on Aruba, he asked the Netherlands delegation to comment on the statement in paragraph 223 that in view of the large number of nationalities resident in Aruba, minorities as such did not exist. It was not clear which nationalities were meant in table 7, which merely listed countries. As he understood it, more than half the population was of Indian origin. He sought clarification on that subject.

41. Legislation in Aruba prohibiting and punishing racial discrimination was clearer and more specific than in the Netherlands itself. As to regulations on entry and expulsion, given the island's small size, restrictions were understandable, but it was not evident why they should only apply to nationals from the Dominican Republic and Haiti. Was that not discriminatory? Nor was it understandable why persons working as domestics should not be allowed to change employment and could even be expelled.

42. Regarding education, he asked why Papiamento, which was spoken at home by 77 per cent of the population, was used only in the first two years of school. Given the importance of Papiamento, why was Dutch the official language? Should not bilingual education be introduced?

43. Turning to the Netherlands Antilles, problems were posed above all by the growing presence of migrants. For example, on St. Martin, the second biggest of the island group, there were more foreigners than nationals of the Netherlands. Unfortunately, the statistics provided contained no information on race or ethnic origin, but only on nationality. That was not helpful for assessing implementation of the Convention. The migrants constituted the majority of the working population but were less well paid than others. Further questions arose in connection with the right to education of the new illegal migrants and their children, since they did not speak Dutch and facilities were lacking. In general, their illiteracy rate was higher.

44. Paragraph 357 referred to judgements in cases concerning the treatment of foreign live-in domestic personnel. In a number of decisions, courts in Aruba and the Netherlands Antilles had ordered the authorities not to expel such persons when they had asked to change employers or had been living in the country and had applied for a work permit. He cited in that regard the cases of Ms. Wongsosemito in Aruba and Ms. Leonor Mero Barreto, Ms. Jinandunding,

Ms. Minerva Garcia Inesia and Ms. Asha Rodrigues in the Netherlands Antilles. Ms. Jinandunding had even been paid compensation by the authorities for the period during which she had been denied the right to return to the Netherlands Antilles following her expulsion. That was an encouraging development. How did those examples compare in number with applications in similar cases which had been rejected?

45. Mr. BANTON said that, although the Netherlands report had been submitted in March 1997, he had not received a copy until February 1998 because of the time taken to translate such an inordinately long periodic report into the other working languages. A great deal of the material on Aruba and the Netherlands Antilles belonged more appropriately in the core document and the tables could have been attached as appendices, which were not translated. He had suggested at the recent meeting of chairpersons of human rights treaty bodies that any State party submitting a periodic report of more than 30 pages should be required to assume responsibility for translation into the working languages, a very costly operation. That proposal had been rejected but it had drawn attention to the need for a balanced approach to assessment of the different items of expenditure involved in monitoring the implementation of the Convention. When the Committee had proposed the previous year to hold an occasional session in New York for the convenience of States parties which had no diplomatic mission in Geneva, the Netherlands delegation had opposed the idea on the grounds that it would increase the cost of the session.

46. Referring to section 5 of the Equal Treatment Act, he expressed misgivings about the use of the adjective "sole" in the exceptions listed under subsection 2 (a) and (b). The wording "on the sole grounds of" various types of discrimination lent itself to a restrictive interpretation since unequal treatment often occurred on both permissible and prohibited grounds and might be justified by the discriminating party on the former grounds.

47. The section of the report on article 3 overlooked the Committee's General Recommendation XIX. Paragraphs 127 to 129 could have been included in the section and the existence of black and white schools in the Netherlands could also have been reported under that heading.

48. The material from NGOs expressed serious concern regarding the implementation of article 4. He trusted that the State party would respond fully to those concerns in its fourteenth report, which was due in January 1999.

49. With regard to article 5 (b), the Dutch section of the International Commission of Jurists (ICJ) reported that racial attacks had increased fourfold in recent years to over 1,000 cases per year, a figure that should have been provided by the State party. Although many European governments collected data on racial attacks, approaches differed and the results were not strictly comparable. The two countries with the best statistics were Sweden and the United Kingdom and the figures they provided were significantly higher than those for the Netherlands.

50. Economists drew a distinction between complementary and substitutable immigrant labour, competition with native labour occurring only in the latter case. Much immigration had initially involved complementary labour but

countries pursuing integration and equal opportunity policies tended to facilitate the employment of immigrants in jobs that fell into the substitutable category. The resultant increase in resentment among native jobseekers might be expected to lead to an increase in the incidence of attacks: hence the need for a concurrent strengthening of anti-racist policies.

51. He asked the delegation to comment to the reference in the report of the Dutch section of ICJ to the return of Iranian asylum-seekers.

52. With regard to article 5 (e), he welcomed the information in paragraph 118 of the report about ethnic monitoring in the employment market, a difficult and challenging practice that aroused strong feelings in many industrialized countries. He wished to hear more about the Dutch experience in that area.

53. The report of the National Bureau against Racism (LBR), a Dutch NGO, referred to the number of immigrants who left their jobs "out of pure misery", owing to racial harassment he surmised. In the United Kingdom racial harassment in the workplace could constitute grounds for dismissal and a civil remedy had been provided for such cases. An employer was obliged to protect employees against harassment and could be heavily fined for failing to do so. Were such remedies available in the Netherlands and, if so, how frequently were they used?

54. According to a study by the International Labour Organization referred to in the LBR report, Moroccan job applicants, even when highly educated and fluent in Dutch, received considerably less favourable treatment than their Dutch counterparts in one third of all cases. Publicity for such findings would help to convince the public that additional action to protect immigrants was necessary.

55. He would welcome statistics on health care and comparative standardized figures for mortality rates.

56. With regard to article 6, he wished to know how effective existing measures had proved and whether the use of available remedies was proportionate to the incidence of racial discrimination.

57. He wondered why the report failed to mention that some 60 Muslim schools existed in the Netherlands and were operating very successfully. He suggested that the terms "intercultural" or even "transcultural" were preferable to "multicultural" in the field of education because cultures were constantly changing and educational measures should not be conducive to cultural stasis.

58. Mr. YUTZIS said he was surprised that the Netherlands had taken so long to submit its latest report. It was to be commended, however, for its frank acknowledgement of existing problems in the area of racial discrimination.

59. He welcomed the statement by the Netherlands Advisory Council on Government Policy reported in paragraph 29 that unless a minorities policy was rooted in an overall policy designed to counter undesirable general trends in

society, it was doomed to address no more than the symptoms. The Council had also identified access to employment as an important form of integration. He would go even further and submit that employment was a key aspect of identity.

60. In paragraph 32, under the heading "Reception and integration policy: a new administrative philosophy", the report mentioned as a basic principle that individuals were responsible for their own actions in their own social environment and that the Government could not and should not be responsible for everything. Responsibility was to be shifted to the local authorities, who were "in immediate contact with the individuals concerned". He wondered whether the policy was aimed at decentralization or rather at deregulation, a fashionable idea in the new global market economy whose roots could be traced back to the era of economic laissez-faire. The aim was to expand the nation by shrinking the State but often the fate of the individual depended on the whims of the market. Who exactly were the individuals who were to be "responsible for their own actions"? He feared that individuals with greater purchasing power and motivated solely by self-interest would take most of the decisions in cases where the State had divested itself of its responsibilities. Minorities would naturally be placed at a disadvantage. He asked the delegation to clarify the principle involved.

61. According to paragraph 86 of the report, the Joint Industrial Labour Council had recognized in 1990 that 60,000 jobs must be created within five years. Had that target been reached? Paragraph 90 mentioned that the 1994 Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants required employers with more than 35 employees to draw up a plan of action indicating the targets they had set. What were the results of that initiative?

62. According to paragraph 114, the growing demand for better qualified staff did not favour immigrants who generally had a low level of education and, according to paragraph 170, only about 2 per cent of the total student population in higher education came from ethnic minorities. How did the State party propose to address that problem?

63. According to paragraph 126, home ownership among immigrants was very limited owing to their below-average income, another example of the vicious circle: incomes were low because higher-paid jobs called for specialized skills which were obtainable only through higher education.

64. He asked for more information about the withdrawal of the 1968 Caravan Act which, according to paragraph 130, had placed itinerants in an exceptional position and excluded the great majority of the Dutch population. What measures had the Netherlands Government taken against mass media which disseminated racial propaganda? How many public demonstrations of a racist nature had been broken up or prohibited? What action had been taken to prevent the dissemination of racist popular music?

65. Mr. GARVALOV said he had been somewhat confused by the abundance of terms used in the report with regard to minorities, including "aliens", "members of ethnic minorities", "ethnic minorities", "Turks and Moroccans" (who evidently were different from minorities), simple "minorities", "immigrants", "migrants", "legal immigrants" and, curiously enough, people

from countries of different ethnic origins from the Dutch population. Had the State party acceded to the Framework Convention for the Protection of National Minorities? If so, what was its interpretation of the term "national minority", which did not appear in the report?

66. He was even more confused by the headings under "Employment policies". Under "employment of ethnic minorities in government departments", paragraph 91 mentioned Turks and Moroccans. Were they considered ethnic minorities in the Netherlands? The next heading, regarding employment of minorities in the armed forces, used the simple term "minorities". What about religious or linguistic minorities? A reference to "aliens" appeared in paragraph 100, under the heading "Employment of minorities in government service", whereas according to paragraph 2 of the report, there was an essential difference between the terms "aliens" and "foreigners" and the term "ethnic minorities". Table 1 contained some very informative statistics, but again it singled out Turks and Moroccans. Clarification was needed.

67. Regarding integration, he appreciated the high standards of Dutch society. The fact that it was very easy for foreigners, or people from ethnically different communities, to move into such a society and emerge integrated might be very good for them as human beings, but was there not also a danger of assimilation and loss of ethnic diversity and identification? He asked for clarification of the frank admission in paragraphs 80 and 82 of what constituted integration into Dutch society.

68. Mr. VALENCIA RODRIGUEZ said the recent court decisions to punish individuals and organizations using racial slurs and other pejorative terms constituted important precedents, and the State party should continue to provide that type of information in its reports. He welcomed the principle that all legal residents of the Netherlands who were members of an ethnic minority were entitled to equal treatment. According to paragraph 9, it was the Government's will to have foreigners integrated into Dutch society. What was the scope of the integration process? Was it the same as assimilation? Did foreigners and ethnic minorities maintain their own religious, linguistic and cultural identity? The Government should increase its efforts on behalf of itinerants, especially with regard to housing, education, employment, welfare, health care and public order.

69. While the courts had not construed the mailing of a single consignment of discriminatory material as constituting public distribution (paragraph 18 (c)), the fact that such materials were printed implied the possible existence of organizations or individuals promoting racial hatred. Had any measures been taken against those possible sources of racial discrimination? He welcomed the court's decision that unsolicited mailing of leaflets and books containing utterances denying the Holocaust could not be construed as mere factual reporting and therefore involved an infraction of the Criminal Code (paragraph 20). What had been the result of the appeal filed in that case?

70. Paragraph 21 (a) described a Supreme Court decision quashing a conviction of discrimination because it involved a distinction made on grounds of nationality in the purely political sense, which was not automatically covered by the anti-discrimination provisions. What was meant by "nationality

in the purely political sense"? How did that differ from the provision in article 1 of the Convention prohibiting discrimination on the grounds of national origin?

71. A political party and its leader who had been convicted of making discriminatory utterances had been ordered to issue a retraction (paragraph 63). Under article 4 of the Convention, however, such actions required the dissolution of such organizations and the punishment of their members; it was not enough simply to have them retract their statements. He welcomed the measures adopted to promote the employment of ethnic minorities, whose unemployment rates were very high. Their housing situation also gave cause for concern.

72. He was concerned about the opinion polls showing an increasingly negative climate of opinion with regard to ethnic minorities. There was a need to intensify campaigns for understanding, tolerance and harmony among groups; such campaigns should touch on all possible fields, starting with the most important - education - and also including labour, housing, unions, culture, sports and churches. The media could play a major role in that regard, and the Committee should make a recommendation to that effect.

73. Mr. de GOUTTES said the report contained some gaps and some insufficient updates, for instance on the role of the Equal Treatment Commission and the 1994 Equal Treatment Act. The Commission appeared to play an important role in combating racism, receiving individual and group complaints and being empowered to investigate and to hold public hearings. Why did the report not say more about it? Why had the Commission not been involved in the preparation of the report; what measures had been taken to consult anti-racism NGOs, including the National Bureau against Racism and the Dutch section of the International Commission of Jurists?

74. Among the positive aspects to be stressed were the very innovative measures to combat discrimination in the private sector, which was most difficult to influence; the experience of the Joint Industrial Labour Council, which brought together both employers' and employees' organizations in combating racism; and the experience gained in consultations between the police and minorities. More information would be appreciated.

75. The measures taken to comply with the Committee's recommendations in its Communication No. 4/1991 regarding the L.K. case were also positive, as it was very rare for Governments to deal in their reports with follow-up to Committee opinions on communications. Paragraphs 3-8 contained very interesting information on judicial decisions, particularly by the Supreme Court, but more general statistics were needed on the number of complaints, prosecutions, convictions and especially reparations made to victims of racial discrimination. What were the police authorities, prosecutors and courts doing about racism cases? He would also like more information on measures taken against racist organizations and parties and on whether anti-racist NGOs could file class action suits.

76. Regarding the country's educational policy, the Committee had expressed concern in 1991 regarding the trend towards segregation in schools; at present

there was also a general trend against placing white children in schools with immigrants. Had any measures been taken to follow up on the Committee's previous observations?

77. The report spoke frankly of the increasingly negative climate of opinion towards ethnic minorities and of their high unemployment rate and under-representation in higher education. All of those alarming indicators were not unique to the Netherlands, but nonetheless deserved attention in the next report.

78. Mr. Yutzis took the Chair.

79. In reply to a question by Mr. HALFF (Netherlands), Mr. DIACONU said he had been unsure of the meaning of the terms "nationality" and "racial appearance" as used in the Equal Treatment Act, and not in the report.

The meeting rose at 5.55 p.m.

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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Fifty-second session

SUMMARY RECORD OF THE 1253rd MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 March 1998, at 10 a.m.

Chairman: Mr. ABOUL-NASR

CONTENTS

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (continued)

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Thirteenth periodic report of the Netherlands (continued)

Review of the implementation of the Convention in Antigua and Barbuda

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GE.98-15507 (E)

CONTENTS (continued)

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (continued)

Consideration of the situation in Bosnia and Herzegovina

Consideration of the situation in the Democratic Republic of the Congo

Consideration of the situation in Kosovo

ORGANIZATIONAL AND OTHER MATTERS (continued)

Mission of Mr. Yutzis to Guatemala

The meeting was called to order at 10.15 a.m.

SOLEMN DECLARATION BY THE NEWLY ELECTED MEMBERS OF THE COMMITTEE UNDER RULE 14 OF THE RULES OF PROCEDURE (agenda item 2) (continued)

1. The CHAIRMAN welcomed Ms. McDougall as a new member of the Committee, whose arrival had been delayed owing to her participation in a conference on racial discrimination which had just taken place in South Africa.

2. In accordance with rule 14 of the rules of procedure, Ms. McDOUGALL, as a newly elected member of the Committee, made the following solemn declaration:

> "I solemnly declare that I will perform my duties and exercise my powers as a member of the Committee on the Elimination of Racial Discrimination honourably, faithfully, impartially and conscientiously."

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Thirteenth periodic report of the Netherlands (continued) (CERD/C/319/Add.2; HRI/CORE/1/Add.66, 67 and 68)

3. At the invitation of the Chairman, the delegation of the Netherlands took places at the Committee table.

4. Mr. HALFF (Netherlands), Head of the Legal and Social Affairs Division, Ministry of Foreign Affairs, said that before replying to the questions raised, he wished to make a few general comments.

5. Firstly, some ministries responsible more specifically for judicial matters, educational policy and housing were not represented in the delegation and it was not possible, therefore, to reply immediately to the questions relating to those areas. His delegation would make sure that answers were provided in the next report, taking account of the Committee's recommendations as well as the comments from non-governmental organizations (NGOs).

6. Some Committee members had criticized the periodic report of the Netherlands (CERD/C/319/Add.2) for covering too long a period and citing too much old data, while others had felt that it was not sufficiently complete on certain aspects. The Netherlands had endeavoured to strike a balance between thoroughness and readability, but that was not always easy. Regarding the consistency of terminology, a greater effort would be made in future, but the use of different expressions was sometimes unavoidable when dealing with different contexts or different laws.

7. In reply to the members of the Committee who regretted that the report referred only to the outcome of elections in the distant past, he wished to point out that municipal elections had been scheduled for 4 March and would provide an opportunity to undertake a more up-to-date review.

8. Lastly, he would say to the members who encouraged the Netherlands Government to cooperate more with NGOs that such cooperation might be seen as placing a constraint on the independence and freedom of expression of the NGOs concerned.

9. Mr. JACOBS (Netherlands), Netherlands Antilles Bureau of Foreign Relations, said that he would endeavour to respond more specifically to the questions which came within his field of expertise. To put those questions in their proper context, he wished to give some information about the historical and demographic development of the Netherlands Antilles. Although sparsely populated around 1900, the Netherlands Antilles had subsequently attracted immigrants of all origins, but mainly from the Caribbean region, when an oil refinery had been built in Curaçao in the 1920s. That had led to a considerable mixing of peoples, which meant that it was not easy today from a methodological point of view to prepare statistics differentiated with regard to ethnic origin.

10. For that reason the Netherlands Antilles had traditionally chosen to apply the criteria of place of birth or nationality to distinguish between nationals and migrants, although the use of those criteria might not always bring to light discrimination in all its forms.

11. He hoped that those explanations would satisfy Mr. Diaconu. In answer to the latter's question on the age structure of the migrant population, he indicated that in 1992 the 15-64 age group represented 88 per cent of the total migrant population in St. Maarten, reflecting a high proportion of economically active migrants.

12. The fact that migrants had a lower income level than the rest of the population could be explained quite easily. Most of them, in particular those from the Caribbean, were employed in light industrial and hotel or restaurant jobs, as well as in domestic service, where wages were low, resulting in a low average income for the total migrant group.

13. With regard to education, it was a fact that school facilities, particularly in St. Maarten, were insufficient to cope with the large influx of migrant children. The island was small and the education budget was limited, although its share in the total budget had increased substantially in recent years. Migrant workers had for that reason been allowed to establish some private elementary schools, which coexisted with the public schools, but that was admittedly not the ideal solution.

14. Lastly, he greatly regretted that he did not have the necessary data to provide an immediate answer to the question concerning rulings on foreign domestic workers, as referred to in paragraph 357 of the report. He hoped that some information could be provided in that regard in the next report.

15. Ms. KESSELS (Netherlands), Netherlands Antilles Bureau of Foreign Relations, replied to the questions from Mr. Diaconu concerning the second part of the report dealing with Aruba.

16. The Aruban population was a mixture of American Indian, European and African heritage. All people born on Aruba of a mother or father with

Netherlands nationality automatically acquired Netherlands nationality by birth, but that nationality could also be acquired in the course of time by immigrants of all origins. The population had thus become so mixed that it was now difficult to speak of national minorities. One consequence was that many of those Netherlands nationals did not have Dutch as their first language, but spoke the local language, Papiamento. However, education was still provided in Dutch in most schools, thereby enabling pupils, if they so wished, to continue their studies in Dutch universities. A system of bilingual education was currently under consideration and Papiamento could be taught in primary schools. A bill on official languages had been drafted with the objective of promoting the written use of Papiamento, in particular by administrative bodies. For practical reasons, however, Dutch would remain the language of the judiciary and legislation. It should be pointed out that the inhabitants of Aruba were completely free to use whatever language they desired and there was no discrimination on that basis, which would be contrary to the Constitution.

17. On the question of the admission quotas referred to by Mr. Diaconu, she said that only persons of Netherlands nationality had free entry to the island. All other persons needed a residence permit, which was issued only in connection with a work permit, the latter normally being provided for occupations where there was a labour shortage (for example, domestic service). That restrictive policy was due to the fact that Aruba was a small island which had a limited infrastructure and had in recent years experienced accelerated population growth.

18. Some admission quotas based on nationality had been applied in the past to deal with the influx of immigrants from Haiti and the Dominican Republic. However, those quotas had been deemed discriminatory and had been abolished about five years ago.

19. Mr. TILMANS (Netherlands), Ministry of Internal Affairs, replying to a question from Mr. Diaconu, explained that the Netherlands had given some responsibility for combating racial discrimination and promoting tolerance to members of civil society, including employers, schools and other institutions, because it was convinced of the value of self-regulation in that field. That approach had, moreover, inspired the Equal Treatment Act, which was discussed at length in the core document of the Netherlands (HRI/CORE/1/Add.66). That Act gave individuals or organizations representing their interests the possibility of filing a complaint with the Equal Treatment Commission if they felt that violations had been committed. The functioning of the Commission would be evaluated in 1998 and its authority would be extended if that appeared necessary.

20. Several questions had been asked about immigration policy and the treatment of migrants and minorities.

21. Netherlands law did, of course, prohibit discrimination on the ground of nationality. The policy of integration of newcomers was in no way intended to blur cultural differences and sought instead to promote tolerance and mutual acceptance. There was, however, bound to be some degree of assimilation in the course of time.

22. He wished to clear up a misunderstanding regarding the bill on the integration of immigrants that was currently under discussion in the Upper House of the Parliament. The legislation would apply to all immigrants with the exception of European Union citizens, tourists and persons staying temporarily in the Netherlands on the basis of a working contract. It also covered persons with Netherlands nationality coming to the Netherlands for the first time (for example, from Aruba or other countries outside the European region).

23. Lastly, the Frisian minority was not mentioned in the report because it was not an ethnic minority but a well-defined territorial minority with its own language and culture.

24. He shared Mr. Banton's opinion regarding the usefulness of reliable and comparable statistics on ethnic minorities, but one of the problems in that regard was that members of minorities no longer wished to be considered as such once they acquired Netherlands nationality. That made it difficult to identify them without interfering with their privacy. The issue of whether the rules concerning respect for privacy should be amended had, however, been raised.

25. Ms. GORIS (Netherlands), Ministry of Health, Welfare and Sport, said that her Government regarded sport as a good way of combating discrimination in all its forms and had organized a round table conference on sport, tolerance and fair play in Amsterdam in April 1996, which had been attended by almost all other European countries. In accordance with the Declaration issued by the Conference, a four-year Government-subsidized action plan would be conducted in the Netherlands with the help of sports and educational organizations and with support from leading Netherlands companies. A special foundation had been established to execute the plan. It could therefore be seen that the Government was not reneging on its responsibilities, as apparently feared by Mr. Yutzis, who saw the information given in paragraphs 31 to 34 of the report as an example of disengagement of the State, or even "deregulation".

26. Regarding access to health-care services, it was true that only legally residing immigrants could take part in health insurance schemes. That did not mean, however, that medical care was inaccessible for illegal immigrants, but they were expected to pay for such services. That rule, prompted by concern to keep health spending under control, was nevertheless tempered for needy persons, who could without charge receive "essential" health-care services, which included emergency treatment in life-endangering situations, prevention of loss of essential functions, care in situations where a danger to the health of third parties existed, maternity care and preventive youth health care, as well as vaccination programmes. The state of the patient and degree of urgency were evaluated by the medical doctor, and, if treatment was considered essential, the care provider could obtain reimbursement from a newly-founded private fund.

27. Mr. van BONZEL (Netherlands), Ministry of Social Affairs and Employment, explained for the benefit of Mr. Diaconu and Mr. Yutzis, who had expressed interest in the results achieved with the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants of 1994,

that the Act laid down three obligations for employers: the introduction of specific registration of their personnel, the drawing up of public annual reports and the formulation of an internal work plan. It appeared from evaluations made in 1996 and 1997 that only 14 per cent of employers had met all three obligations. However, 57 per cent had observed the first requirement, even if it was seen as a purely administrative matter.

28. In November 1996, employers' and employees' organizations had drawn up a new agreement replacing the 1990 "Minorities Agreement" to encourage the access of ethnic minorities to employment. They had then advised the Government to change the 1994 Act in order to make it more conducive to the implementation of the new agreement, as well as to render it more effective by reducing the administrative burden on employers. Under the Act once amended, the employer would have to make only one report instead of two, as before, and enforcement of the Act would be based on civil law instead of criminal law. The new Act would be called the "SAMEN Act" and employers' compliance with it would be monitored by the Labour Inspectorate. The proposed legislation enjoyed broad political support and was expected to be passed by the Parliament during the current year.

29. In reply to Mr. Diaconu, who had inquired about the steps taken by the Government of the Netherlands to combat rising unemployment, which was affecting members of ethnic minorities despite the introduction of the Act Governing the Promotion of Proportional Participation in the Employment Market for Immigrants, said that the SAMEN Act was intended to remedy that very problem. In order to combat discrimination in recruitment, selection, dismissal and terms of employment, the General Act on Equal Treatment allowed for complaints to be made to the Equal Treatment Commission, which was empowered to initiate investigations of alleged discrimination in employment by persons or organizations, and also to mediate. The Act guaranteed workers invoking it protection against so-called "victimization" dismissal or discriminatory dismissal. The Equal Treatment Commission's report of 1996 showed that people were increasingly making use of that possibility.

30. Replying to Mr. Banton, he said that the Netherlands did not, like the United Kingdom, have a specific act protecting workers against "racial harassment". However, workers were protected by the General Act on Equal Treatment. Although the Act did not mention racial harassment, it afforded specific protection against discrimination in respect of employment or working conditions. The Equal Treatment Commission extended the concept of non-discrimination in employment to protection against harassment by an employer or by other employees. Thus, the employer had to ensure that his employees refrained from discriminating against their colleagues.

31. With regard to the questions from Mr. Yutzis concerning access to employment for ethnic minorities, he said that there were no reliable statistics available to determine whether the plans to create 60,000 jobs within five years for ethnic minorities, in order to make their labour market position proportionally equivalent to that of the indigenous working population, had achieved the expected results. What was certain, however, was that employment had increased among ethnic minorities, although to a lesser extent than among the indigenous population. Employers' and employees' organizations attributed the setback to disappointing economic growth in the

early 1990s and the increase in the supply of labour from the ethnic minorities, a phenomenon which could not have been foreseen.

32. Concerning the figures which showed that employment had increased by 8 per cent among ethnic minorities but that overall employment growth had not been reflected in that population group (CERD/C/319/Add.2, para. 114), he explained that those figures were quite old and did not depict the current situation in the labour market. The participation of ethnic minorities in the labour market had actually improved during the last few years, as indicated in the tables on pages 26 and 27 of the report. Over the period 1990-1995, the improvement in employment had been four times greater for the Moroccan, Turkish, Surinamese and Antillean ethnic minorities than among indigenous persons, i.e. 28 per cent against 7 per cent. Nevertheless, the unemployment rate for ethnic minorities (25 per cent) remained much higher than that for indigenous persons (6.9 per cent). The slight decrease in the rate of unemployment among minority groups was attributable to a parallel increase in the supply of labour, which had risen by 8 per cent for indigenous persons but by 25 per cent for minority groups. That phenomenon was due to the fact that the demographic growth of minority groups - 16 per cent - was much greater than that of the indigenous population, which amounted to only 1 per cent. The figures available for 1993-1996 showed a strong improvement in the employment rate of ethnic minorities, which had increased by 28 per cent, as against 4 per cent for the indigenous population.

33. Mr. SHAHI congratulated the delegation of the Netherlands on the exhaustiveness of the periodic report and thanked it for its oral replies concerning the implementation of the Convention. He would, however, like to know, whether the Government of the Netherlands was taking appropriate steps to prevent the dissemination of racist propaganda on the Internet, in compliance with article 4 (a) of the Convention. Was it planning to enact legislation to regulate the activities of that new medium? If not, how did it intend to prevent the creation of Websites for the dissemination of racist propaganda?

34. Mr. GARVALOV said that the delegation's oral replies would have met his expectations far more had they not focused disproportionately on certain aspects. He had been surprised to hear the term "territorial minority" for the first time, and the delegation's explanation that it meant not an ethnic minority but a linguistic minority hardly clarified the matter. It was perhaps worth recalling that the General Assembly, in the 1992 Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities, mentioned four types of minority groups: national, ethnic, religious and linguistic minorities.

35. Mr. YUTZIS said that, according to the annual socio-cultural survey cited in the report, the trend towards discrimination seemed to be increasing and a clear majority of the population was opposed to affirmative action for ethnic minorities. The figures given in the tables suggested to him that the hostility of the indigenous population towards ethnic minorities had decreased during the period 1985-1990 as compared with the levels before and after that period. He would like the delegation to explain that development in anti-immigrant sentiment.

36. He also noted from the report (paras. 130 and 131) that, in order to ensure that itinerants were treated like all other Netherlands citizens, the authorities were planning to amend the Caravan Act of 1968, as it was no longer in keeping with current housing policy. Considering that, on the one hand, the majority of the population was hostile to affirmative action on behalf of ethnic minorities and that, on the other, the Caravan Act was said to have discriminatory effects against the great majority of the Netherlands population, he was not sure that the provisions being contemplated would not be counter-productive. Was it certain that the principal beneficiaries of the new legislation would be itinerants and not the majority indigenous population?

37. He would also like to have more information about the nomadic groups concerned, including their number and identity, and to have confirmation that the provisions envisaged would not deprive them of any historical advantages. Considering the specific and delicate nature of the question, he would understand very well that the Netherlands delegation might wish to revert to it later.

38. Mr. de GOUTTES noted from the report (para. 151) that the State was continuing to provide grants to establishments associated with political parties holding racist views because the establishments in question had not been banned, by court order, on the grounds that they were a threat to public order. While he could understand that the Netherlands authorities were hesitant, out of respect for freedom of expression, to close such establishments, he nevertheless felt that it was too prudent and restrictive to continue allocating public funds to establishments associated with parties that violated the provisions of article 4 (b) of the Convention.

39. Mr. HALFF (Netherlands) said that it was difficult for the delegation to reply specifically to some of the Committee's additional questions since it had no representatives from relevant ministries such as the Ministry of Justice who might, for example, have been able to answer Mr. Shahi's question about the dissemination of racist propaganda on the Internet. He would, however, make sure that information on that question was included in the next periodic report.

40. His delegation regretted that its replies had not entirely satisfied Mr. Garvalov, although it had done its best to provide the Committee with the desired clarifications. Mr. Garvalov had furthermore been surprised at the delegation's use of the term "territorial minority"; that term had been used only when citing sources which had themselves employed it. His delegation would endeavour to employ consistent terminology on each issue in its future reports.

41. He was unfortunately not in a position to explain to Mr. Yutzis the reasons for the greater hostility towards ethnic minorities before 1985 and after 1991 or to answer his questions about the proposed amendments to the Caravan Act. Those questions would be submitted to the Ministry of Justice and to the Ministry of Housing, respectively, and answers would be provided in the next periodic report of the Netherlands.

42. Mr. TILMANS (Netherlands), replying to Mr. de Gouttes, who had expressed surprise that the Government of the Netherlands was continuing to subsidize establishments associated with racist parties, said that the possibility of ending such grants and prohibiting access to public radio and television for parties disseminating racist propaganda was being considered by the Parliament.

43. Mr. HALFF (Netherlands), answering a question concerning Frisian, said that the language was spoken exclusively by the inhabitants of the northern province of Friesland, who could use it freely as well as Dutch. The regional nature of the language was connected with history and administrative practice.

44. The CHAIRMAN commended the quality of the reports submitted by the Netherlands and the remarkable spirit of cooperation that the State party had always shown with a view to ensuring the implementation of the Convention.

45. Mr. DIACONU (Country Rapporteur) likewise welcomed the extremely interesting, constructive and substantive dialogue held between the Committee and the Netherlands delegation. Judging from the legislation currently being drafted to guarantee health care for the wives and children of illegal immigrants, the authorities were taking steps that met some of the Committee's concerns. They were also taking specific action against the activities of racist organizations.

46. He urged the Netherlands authorities to consult non-governmental organizations during the preparation of their periodic reports, in the same way as other countries, without fear of affecting the independence of the NGOs. Those organizations were sufficiently robust to maintain their autonomy, and their viewpoints deserved to be taken into consideration.

47. The Committee should stress a number of points in the dialogue with States parties. The question of nationality sometimes gave rise to slightly different interpretations, some viewing it in the sense of national origin and others in terms of citizenship. Emphasis should be placed on citizenship, while ensuring that the concept of national or ethnic origin was duly reflected, in accordance with article 1 of the Convention.

48. The Frisians could certainly be described as a linguistic and historical minority, meeting all the relevant criteria accepted in Europe.

49. He thanked the delegation of the Netherlands and hoped that a representative of the Ministry of Justice would be present during the consideration of the country's next periodic report.

50. The CHAIRMAN warmly thanked the delegation of the Netherlands for its efforts to reply as fully as possible to the many questions put by the members of the Committee and for having contributed to a fruitful dialogue. He announced that the Committee had thus completed its consideration of the thirteenth periodic report of the Netherlands.

51. The delegation of the Netherlands withdrew.

The meeting was suspended at 11.40 a.m. and resumed at 11.45 a.m.

Review of the implementation of the Convention in Antigua and Barbuda

52. The CHAIRMAN announced that Antigua and Barbuda had requested that the review of the implementation of the Convention in its territory be deferred to the Committee's fifty-third session and had given the assurance that its report would be submitted in time for that session. If he heard no objection, he would take it that the Committee wished to grant the request.

53. It was so decided.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING MEASURES AND URGENT ACTION PROCEDURES (agenda item 6) (continued)

Consideration of the situation in Bosnia and Herzegovina

54. The CHAIRMAN said the Bureau recommended that the situation in Bosnia and Herzegovina should not be considered under agenda item 6 in the current circumstances. Since the Government had not announced that a representative would be sent, there could be no dialogue. He invited the members of the Committee to give their views on the matter.

55. Mr. RECHETOV recalled that, in the absence of a representative of the country in question, the Committee had in the past consulted the special rapporteurs of certain other relevant bodies; he proposed that, for example, the Committee should hear Ms. Rehn, in her capacity as Special Rapporteur on the situation in Bosnia and Herzegovina, for it could hardly expect worthwhile information from representatives that the country might send with reluctance.

56. The CHAIRMAN said he feared that by acting on Mr. Rechetov's proposal, the Committee would be setting a precedent; he recalled that article 9 of the Convention required the Committee to rely in its work essentially on the reports and information received from States parties. That did not, of course, prevent it from drawing on other sources to supplement the information available, and the Committee might wish to give some thought to that suggestion.

57. Mr. SHAHI shared Mr. Rechetov's concern. If the Committee adhered strictly to the terms of article 9 of the Convention to study the situation in a country under the agenda item on prevention of racial discrimination, it might well deprive itself of valuable information. The Committee should at least ask to hear from someone who was well informed about the situation in Bosnia and Herzegovina.

58. The CHAIRMAN said that such a request had little chance of being heard, but it could be transmitted and the Committee might wish to leave until later a decision on what action should be taken.

59. Mr. van BOVEN said that he was not against postponing consideration of the situation in Bosnia and Herzegovina, but urged that the question be kept under agenda item 6. It should be remembered that the Dayton Agreement was far from being given effect as it should, that segregation was still being practised and that the Committee had received no reply to its proposals to

assist in the implementation of the Agreement. He suggested that the authorities of Bosnia and Herzegovina should again be contacted and advised that the Committee had not discontinued consideration of the situation in their country. In the meantime, it should provide itself with the means it lacked to undertake that review.

60. Mr. de GOUTTES, referring to the various proposals made by earlier speakers, suggested that the question of the situation in Bosnia and Herzegovina should be kept under agenda item 6 and that the Committee should send the authorities of Bosnia and Herzegovina a letter to advise them that the situation in their country would be examined in August 1998 and to request them to delegate representatives to participate in the proceedings. Lastly, the Committee could express the wish to be kept informed, if not by Ms. Rehn, who had been called upon to perform other duties, then for example by Ms. Haller, the Human Rights Ombudsperson for Bosnia and Herzegovina. In any event, the Committee's vigilance must not be relaxed.

61. Mr. SHERIFIS recalled that, in paragraph 5 of its decision 2 (51) on Bosnia and Herzegovina, the Committee had decided to remain seized of the situation in Bosnia and Herzegovina under its agenda item on prevention of racial discrimination, and had expressed the wish that the State party concerned should be present at the next examination of that situation. The State party had been duly informed of that decision but the Committee had thus far received no reply.

62. As to the question of referring to a well-informed source, Ms. Rehn, even if no longer exercising the same functions, was still the most appropriate person. In the absence of a representative of the State party, the Committee certainly must be able to hear a reputed expert on the matter.

63. The CHAIRMAN said that he was not very favourable in principle to the idea of inviting a person from another body to take part in the Committee's discussions, but he nevertheless proposed that the Committee should study the possibility.

64. Mr. YUTZIS proposed to draft a note outlining a way in which the proposals made by Mr. de Gouttes could be put into effect and enable the Committee to remain actively vigilant and not simply waiting for new developments.

65. The CHAIRMAN welcomed that initiative. He proposed that the draft to be prepared by Mr. Yutzis should be studied first by the Bureau and then by the Committee.

66. It was so decided.

Consideration of the situation in the Democratic Republic of the Congo

67. Mr. BANTON (Country Rapporteur) recalled that as early as 1988 the Committee had expressed concern about the situation in the country in question. Unfortunately, what had seemed to be only a small cloud had become a terrible storm that had dismantled civil society and had already left millions dead. It was generally felt that it would have been better for

preventive measures to have been taken from the very outset and it was regrettable that the Organization of African Unity had not had more effective means to use. The Committee now had only a small role to play on the international scene; the Security Council could dispose of the resources needed and other bodies had the necessary competence and experience.

68. Nevertheless, the Committee had a duty to act and he proposed to draft a declaration for transmittal to the competent bodies saying essentially that, in the Committee's view, the United Nations should pursue its investigations into human rights violations in the Democratic Republic of the Congo and emphasize the need to bring those responsible to justice; that consideration should be given to extending the mandate of the International Tribunal of Arusha so that it could try the war crimes and crimes against humanity committed in the Democratic Republic of the Congo; and that the necessary assistance must be provided, as a matter of priority, for the administration of justice in the country to ensure that it had a real judiciary which could play its role in the restoration of public order. The declaration should be included in the Committee's report to the General Assembly and should be sent to the competent bodies without waiting for the report to be published.

69. Mr. SHAHI said that the declaration should be sent to the appropriate authorities as soon as possible. He referred Mr. Banton to a recent report by Human Rights Watch/Africa which summarized the situation in the Democratic Republic of the Congo and contained recommendations addressed to the Governments of that country and Rwanda, and to representative bodies of the international community, such as the United Nations and the European Union.

70. The CHAIRMAN pointed out that the investigative team sent by the Security Council to the Democratic Republic of the Congo had included one of the members of the Committee and noted that there was a lack of information about the work of that mission. Perhaps the new High Commissioner for Human Rights, Mrs. Robinson, could clarify the matter for the Committee and explain the refusal of the Government of the Democratic Republic of the Congo to cooperate. He further requested Mr. Shahi to consult with Mr. Banton and explain what "appropriate authorities" he had in mind.

71. Mr. DIACONU said that he was not opposed to Mr. Banton's initiative but pointed out that the Democratic Republic of the Congo was the theatre of human rights violations of all kinds and that the Committee's terms of reference limited its field of action to manifestations of racial discrimination. Care would therefore have to be taken to select information of relevance to the Committee, and that would be no easy matter because some human rights violations affected Rwandan refugees, some were perpetrated by Rwandans, others by Congolese and still others, aimed at Congolese ethnic groups, were committed by Congolese and Rwandans alike.

72. Regarding the purpose of the declaration, he thought that, considering the difficult stage reached in the dialogue between the United Nations and the Democratic Republic of the Congo, it would be better to address the text to the High Commissioner for Human Rights and ask her what action the United Nations intended to take to deal with the situation. Another question was when and how the Committee would have the possibility of establishing a

dialogue with the new authorities, in connection with a periodic report submitted by the Democratic Republic of the Congo under article 9 of the Convention.

73. Mr. de GOUTTES agreed fully with Mr. Diaconu that the Committee should first address the High Commissioner for Human Rights. It also had every interest in taking account of the work and decisions of the Commission on Human Rights, which would likewise be seized of the question.

74. The latest Human Rights Watch bulletin contained some information about the new investigative team appointed by the Security Council following the setback of the earlier mission. It appeared that the new mission had also made no progress and was in effect suspended. It would be worth asking the High Commissioner for Human Rights for more precise information if, as he hoped, Mrs. Robinson intended to participate in a meeting of the Committee during the current session.

75. Mr. VALENCIA RODRIGUEZ endorsed Mr. Banton's proposal. Regarding the mission to the Democratic Republic of the Congo established by the Secretary-General of the United Nations, he indicated that he had met Mr. Chigovera, a member of that mission, in New York in November 1997. Mr. Chigovera had told him that, during their first visit to the Democratic Republic of the Congo, the members of the mission, who had asked to visit the region where human rights violations had been committed and to hear from witnesses, had not been authorized to do so and had remained in the capital. The results of their second visit would be put before the Commission on Human Rights at its next session.

76. The CHAIRMAN thanked Mr. Valencia Rodríguez for the updated information. The Committee could request Mr. Banton to inquire about the results of the mission and could also ask the High Commissioner for Human Rights to provide information on the matter. It could express its deep concern about the situation in the Democratic Republic of the Congo.

77. Mr. van BOVEN said that the Committee currently knew very little about the situation in the Democratic Republic of the Congo and the Commission on Human Rights would, of course, be meeting shortly. In that connection, Mr. Garretón had been appointed special rapporteur by the Commission on Human Rights to make inquiries concerning the situation in the Democratic Republic of the Congo, and the Security Council had authorized the Secretary-General to send an investigative team to that country. Mr. Garretón was due to report on the situation very soon.

78. The CHAIRMAN said it would be useful for the Committee to obtain the report and proposed that it keep pending the consideration of the situation in the Democratic Republic of the Congo.

79. It was so decided.

Consideration of the situation in Kosovo

80. Mr. GARVALOV said that he was extremely concerned about the situation in Kosovo. He felt that the Committee should act as quickly as possible.

81. The CHAIRMAN said that the Committee's secretariat had been in contact, both in writing and orally, with the Yugoslav Mission, which had confirmed that it would be sending a delegation to present its report on the implementation of the Convention. He therefore suggested that the Committee should wait for that presentation, scheduled for the following week, to put to the Yugoslav delegation all the questions it wished to raise.

82. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 5) (continued)

Mission of Mr. Yutzis to Guatemala

83. Mr. YUTZIS, presenting the report he had prepared on his mission to Guatemala (CERD/C/52/Misc.22), indicated that the report began by describing the situation in the country afte 36 years of civil war and the peace agreements signed on 19 December 1996. The second part of the report considered the positive aspects of the peace process that would contribute to the implementation of the Convention. The third part reported on obstacles and limitations to the peace process which affected the implementation of the Convention. Lastly, in the fourth part, he drew various conclusions from his mission. He pointed out that he had been provided with all the necessary assistance in his work by the Government and by the Presidential Commission on Human Rights. He had also been able to meet numerous representatives of the indigenous communities.

84. The situation in Guatemala remained precarious, since it was difficult to overcome three decades of war. Moreover, the fragility of the judicial system and the grave economic difficulties were harmful to the implementation of the Convention. Conflicts were likely to recur. In the conclusion of his report, he emphasized that clear-cut and operational mechanisms had to be established to involve civil society and the indigenous sectors satisfactorily and effectively in the implementation of the peace agreements, and that the Government should specifically reaffirm its determination to include the indigenous peoples' pluralist vision and practice in the process of building peace.

85. The CHAIRMAN suggested that the Committee should draft a recommendation concerning the situation in Guatemala.

86. Mr. VALENCIA RODRIGUEZ supported the Chairman's proposal. He endorsed the conclusions of the report prepared by Mr. Yutzis and said he would like more information about the persisting climate of violence and impunity referred to in chapter III of the report. The Government gave an assurance, in particular, that the climate of violence had been dispelled.

87. Mr. NOBEL commended the quality and structure of the report. He would like to know the current position regarding the repatriation of the Maya people who had taken refuge in Mexico because of the civil war.

88. Mr. van BOVEN welcomed the report by Mr. Yutzis. He would like some information about the results of the work of the truth and reconciliation commission set up after the civil war. Also, did Mr. Yutzis think that the

question of impunity tended to facilitate or hamper the peace process? Many of the indigenous people, who represented the majority of the population, had been victims of the civil war. What was their current status?

89. Mr. DIACONU thanked Mr. Yutzis for his report. He would like to know how his terms of reference, namely to assist the State party in the implementation of the Convention, had been applied in practice. The report said nothing about Guatemalan legislation. If there was any anti-discrimination legislation, was it adequate? Had the conclusions of the report been communicated to the Government and, if so, had it provided any reply? Lastly, he noted that the conclusions referred to the peace process. In his view, they should have focused on the implementation of the Convention.

90. Mr. de GOUTTES thanked Mr. Yutzis for having emphasized the problem of impunity and the difficulties encountered by the judiciary which hindered the peace process. Those points were, in his view, relevant to the Convention. The report suggested that indigenous people did not have access to the justice system and were mistrustful of it. The Committee should place emphasis on the relationship between indigenous people and the judiciary. Obviously, there were political difficulties that stemmed from the lack of resources made available by the Government for the administration of justice.

91. Mr. SHERIFIS congratulated Mr. Yutzis on his report. Like Mr. de Gouttes, he wished to underline the difficulties in the relationship between the various indigenous populations and the judiciary. What was the situation of the Maya who had taken refuge in Mexico? He recommended that the discussion on the situation in Guatemala should be pursued at a later meeting, since the quality of the report warranted it.

92. Mr. YUTZIS said that he had taken account of the fact that 85 per cent of the population was indigenous in drafting his report, which was oriented towards the implementation of the Convention.

93. The CHAIRMAN proposed that the Committee should revert to the report prepared by Mr. Yutzis at a later meeting.

94. It was so decided.

The meeting rose at 1.05 p.m.

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Fifty-second session

SUMMARY RECORD OF THE 1254th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 6 March 1998, at 3 p.m.

Chairman: Mr. ABOUL-NASR

later: Mr. DIACONU

CONTENTS

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (continued)

Initial and second periodic reports of the Czech Republic

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GE.98-15487 (E)

The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 7) (continued)

Initial and second periodic reports of the Czech Republic (CERD/C/289/Add.1; HRI/CORE/1/Add.71)

1. At the invitation of the Chairman, Mr. Somol, Mr. Sovák, Ms. Gjuričová, Ms. Horáková, Mr. Cink, Mr. Fuchs, Mr. Pospíšil, Mr. Bureš and Mr. Krpač (Czech Republic) took places at the Committee table.

2. Mr. SOMOL (Czech Republic) recalled that the Convention had entered into force for the Czech and Slovak Federal Republic in 1969, and that in 1993 the Czech Republic had succeeded to all international human rights conventions to which Czechoslovakia had been a State Party, including the International Convention on the Elimination of All Forms of Racial Discrimination. Since the then Czechoslovak delegation had presented the tenth periodic report to the Committee less than eight years earlier, his country had witnessed the collapse of the Communist regime and the division of the Czech and Slovak Federal Republic, which had had an enormous impact on the lives of all citizens in the Czech Republic, including groups of the population that differed from the majority in terms of race, nationality, language, life style and other aspects.

3. There were two groups of national minorities living in the territory of the Czech Republic. On the one hand, there were national minorities in the traditional sense of the term, entailing such typical problems as protection of their language, its teaching in school, its use in the printed media, etc. Most of the everyday difficulties facing persons belonging to the Polish, Slovak, German or Hungarian national minorities did not differ basically from those encountered by the majority Czech population and were being resolved satisfactorily. On the other hand, the problems of the Roma minority were of a very different nature. Roma were often the targets of racially motivated attacks. Their level of education and vocational skills was comparatively low and their unemployment rate high. They were subjected to de facto discrimination, either openly or covertly, in many aspects of everyday life owing to deep-seated prejudices in part of the population. Since the fall of the Communist regime, it seemed that the gap between the majority population and the other minorities from the Roma population had, if anything, been widening.

4. The root cause of the problems of coexistence between the majority society and the Roma community was the latter's failure to adjust adequately to the norms and values regarded as natural by the rest of the population. The changes which had taken place in the country, especially the introduction of a free-market economy, had put a much higher premium on education and vocational skills - two conditions for successful social integration which the Roma lacked most.

5. His Government had endeavoured to prevent a repetition of the mistakes of the former regime. Accordingly, it had sought to avoid a paternalistic approach or forced assimilation of the Roma ethnic group and had worked

instead to involve the Roma as equals in society, stepping up its efforts since 1993, when the Roma community had begun to face growing difficulties. He would refer to a number of major recent steps which did not appear in the report.

6. As far as the domestic legal framework was concerned, it was fair to say that the protection of members of minority groups in the Czech Republic met high European standards. The Charter of Fundamental Rights and Freedoms, which formed part of the constitutional order in the Czech Republic, stated in article 3 that everyone had the right freely to choose his or her nationality. Czech law did not explicitly list which nationalities lived on its territory, but left it to members of a minority to declare themselves as such. That meant that members of the Roma community also formed a national minority and consequently enjoyed the same rights as other national minorities.

7. Pursuant to article 10 of the Czech Constitution, all international human rights treaties ratified and promulgated by the Czech Republic were automatically incorporated into the domestic legal system and were directly applicable in the courts. If a provision of Czech legislation was in conflict with the Convention, the latter took precedence.

8. On 18 December 1997, the Czech Republic had ratified the Council of Europe's Framework Convention for the Protection of National Minorities, the first legally binding international instrument to safeguard minority rights.

9. The Czech Criminal Code not only made apartheid and genocide criminal offences, but also contained provisions specifically dealing with other racially motivated offences, such as violence against a group of inhabitants, defamation of a race, incitement to national or racial hatred and sponsoring and promoting movements aimed at suppressing civil rights and freedoms. Since 1995, subsections had been introduced into a number of provisions on homicide, bodily harm and extortion making racial motivation for such acts an aggravating circumstance.

10. To combat the rise of racial violence, his Government had decided to increase the penalties for racially motivated crimes and take paralegal and administrative measures. Public prosecutors and investigators had received strict instructions to ensure prompt judicial action in cases of racially motivated offences. An expert on combating racial violence had been deployed in every district police department.

11. The seriousness of the situation of the Roma community had long been underestimated not only by the public but also by some state officials. Public awareness campaigns had in the past been ineffective. The situation had changed radically in summer and autumn 1997, when several hundred Roma had sought asylum in Canada and subsequently in the United Kingdom. Soon thereafter, there had been several violent attacks by skinheads against Roma and dark-skinned foreigners, and a Sudanese student had been killed on the street in Prague. Those events had awakened Czech public opinion. Large demonstrations against racism had been held in dozens of Czech cities and towns, and the authorities had stepped up their efforts to address the problems of the Roma community.

12. In December 1997, the Ministry of the Interior had instructed every town and district authority to create a post of "Roma Assistant and Adviser" to monitor the situation of the Roma minority at the grass roots, mediate between the municipalities and the Roma community and defend Roma interests. A number of job-promotion measures for Roma had been introduced by the Ministry of Labour and Social Affairs, and the Ministry of Trade and Industry had started a special programme of financial subsidies for employers who hired Roma.

13. In order to raise educational standards among the Roma so that they would have better employment opportunities and take more interest in the social, political and cultural life of the country, his Government had widened the network of pre-school classes to help Roma children overcome their language and socio-cultural handicap and ensure that they were not automatically placed in special schools, and it was training Roma assistants to help bridge the gap between teachers and pupils and also to encourage Roma parents to overcome their mistrust of the school system.

14. At the end of 1997, his Government had created an inter-ministerial Commission for Roma Community Affairs to involve Roma in decision making. The Commission was a consultative coordinating body that played a major role in dealing with questions concerning the status of the Roma in Czech society. It was chaired by a minister without portfolio, and its executive deputy chairperson was a representative of the Roma community, Ms. Horáková, who was also a member of the Czech delegation currently before the Committee. The Commission was composed of deputy ministers of departments dealing with Roma problems and six representatives of the Roma community. Its work had focused recently on violent attacks against Roma and the recruitment of Roma police officers, which was seen as the most effective way of improving relations between the police and the Roma community. The Commission had also taken up the issue of Roma seeking asylum in Canada and the United Kingdom.

15. The adoption by his Government in October 1997 of a report on the situation of the Roma community had been of vital importance in assessing recent developments in the area and would serve as the foundation for future policies to promote the full integration of the Roma in Czech society. His Government had set a number of goals on the basis of the report and had instructed the Chairman of the Government Council for Nationalities to submit a progress report in June 1998.

16. The Czech Republic was aware that similar problems between the majority population and Roma minority were encountered in all the countries of central and eastern Europe. It would do its utmost to implement legislation in that area. But there were no easy solutions, and it was only by means of a comprehensive, long-term strategy that the problem could be overcome.

17. Mr. DIACONU (Country Rapporteur) said that he was impressed by the frank tone of the presentation by the head of the Czech delegation. By way of preliminary comment, it was worth noting that the Czech Republic was a more homogeneous country than its neighbours in eastern Europe and, in the current period of transition, was better equipped to resolve the problems posed by the need to protect human rights and fundamental freedoms.

18. Turning to the report, he noted that the demographic figures in paragraphs 15 to 17 showing the relative proportion of the various minorities in the population were virtually the sole data provided; the Committee had expected more detailed statistics, in particular on the enjoyment of political, economic, social and cultural rights by persons belonging to those minorities.

19. Paragraph 15 spoke of the Moravians; given the large size of that minority (13.2 per cent of the population), he wondered why there had been no other reference to it in the report; he would also like to know how it differed from the Czech majority.

20. The report showed that the Czech Republic had been prompt to introduce a set of laws and institutions enabling it to tackle all questions concerning implementation of the Convention. Examples were article 10 of the 1993 Constitution, providing for direct applicability and precedence over domestic law of human rights conventions and the power of the Constitutional Court to order the repeal of laws inconsistent with such conventions, and the provisions of article 3 of the 1993 Charter of Fundamental Rights and Freedoms (paragraph 9) which covered those of article 1 of the Convention, and its article 36 entitling anyone to apply for a review of the legality of a decision and to compensation for damage caused by an unlawful decision of a State body (paragraph 11).

21. It was undeniable that the Czech Republic was determined to eliminate all forms of racial discrimination. However, its legislation was at times so generous that he wondered how it could be implemented in practice. For example, according to paragraph 18 of the report, article 6 of the Constitution stated that "minorities shall be protected by the majority in decision making". How was effect given to such a provision? Had there been any individual cases? Likewise, article 25 of the Charter stipulated that citizens constituting national and ethnic minorities were guaranteed the right to be educated in their language, use their language in official contacts and participate in the settlement of matters concerning national and ethnic minorities (paragraph 20), but the report said little about how those provisions were implemented. As to education in the mother tongue, the number of schools indicated in paragraph 133 - 30 in Polish and 1 in Slovak - seemed so small compared to the relative size of those minority populations that it appeared that either legislation on education was restrictive or there was little demand for classes in those languages. Could the Czech delegation comment? The report contained no information on how other languages were used in official contacts (with the help of court interpreters, translation of documents and replies in the mother tongue, through the intermediary of officials speaking those languages, etc.).

22. With reference to article 3 of the Convention, he observed that the example given in paragraph 24 of the report referred only to time of war, whereas the Convention's requirement applied to peacetime as well. The provisions of that article were particularly important in preventing racist or xenophobic acts.

23. With regard to the implementation of article 4, paragraphs 27 to 31 of the report referred to legislation expressly prohibiting acts of violence,

threats and incitement to national and racial hatred and discrimination and making them an offence. However, sections 198 and 198a of the Criminal Code spoke of race or nation, and not nationality, in defining the offences of defamation and incitement to hatred. The concept of nation did not normally cover the idea of "descent or national or ethnic origin" (article 1 of the Convention). Could the Czech delegation cite any cases in which those provisions of the Criminal Code had been applied and describe how they had been interpreted?

24. The scope of sections 260 and 261 concerning persons who promoted or publicly expressed sympathy for a movement manifestly aimed at suppressing the rights and freedoms of citizens or advocating national or social hatred was extremely wide and should be applicable to such categories as skinheads, laying the basis for their arrest and punishment.

25. Law No. 83/1990 mentioned in paragraph 49 seemed to provide adequate scope for the prohibition of associations or organizations which incited to acts of racial discrimination or violence.

26. While the report mentioned a number of provisions guaranteeing equality of rights and prohibiting discrimination, little reference was made to the specific fields covered by article 5 of the Convention and no figures were given regarding their practical implementation. To what extent were minorities represented in Parliament, in local representative bodies and in the civil service? What statistics were available on the employment and health situation of minorities and on their access to social security? It had been reported that unemployment in the Roma population was as high as 70 per cent and even 90 per cent in some areas.

27. The existence of only 30 elementary and secondary schools in Polish and only one in Slovak seemed inadequate in relation to the size of the Polish and Slovak minorities. Was teacher training provided in those two languages? According to paragraph 137, five teacher training colleges taught students only "the rudiments" of the Roma language and culture. To promote the social integration of members of the Roma population, greater importance should be given to education in their mother tongue.

28. No information was provided on practical decisions taken to implement the legislation described in paragraphs 147 to 158 concerning article 6 of the Convention, for example with regard to reparations in civil proceedings.

29. The information on minority cultural activities referred chiefly to individual initiatives. The authorities seemed to offer little support for such activities, save in the case of the Roma minority. Slovak organizations were reported as being disadvantaged as compared with other minorities in terms of access to premises and funds. Had they applied to the authorities for support? Were there any minority-language publishing houses or libraries? He welcomed the establishment in 1994 of a Council for Nationalities with a wide-ranging mandate and was encouraged by the large number of organizations of persons belonging to national minorities.

30. With regard to use of the mother tongue, paragraphs 200 and 201 again reflected the discrepancy between extremely generous legal provisions and the

actual situation. As the legislation did not specify an official language, the status of minority languages could in principle be viewed as equal to that of the Czech language in administrative and judicial procedures. Under those circumstances, why should problems arise when the Polish minority in certain areas wished to use its own language or bilingual topographical signs?

31. Clearly, acts of racially motivated violence, perpetrated chiefly by skinheads against Roma or dark-skinned communities or individuals, were the main obstacle to implementation of the Convention in the Czech Republic. The number of such acts had reportedly increased sixfold in 1996 compared with 1994. Unregistered ultranationalist movements such as the "Bohemia Hammerskins" and Czech branches of such international groups as "International Blood and Honour Skins" or "White Aryan Resistance" were allegedly operating in the country. There had been reports of desecration of Jewish cemeteries and synagogues, publication of overtly anti-Roma or anti-German material in a political party organ, and dissemination of underground material advocating Fascism, racism and anti-Semitism. According to the Ministry of the Interior, 7,000 persons publicly admitted to active membership of ultranationalist organizations. Perpetrators of violent acts against members of the Roma minority, occasionally resulting in loss of life, had allegedly been let off with light sentences. In some cases, the courts had failed to admit racist motivation as a factor, proceedings had been unduly long and interpretations had been entirely inconsistent with the Convention. It was reported that in October 1995, two youths had threatened four train passengers of Roma origin and forced them off the train. The district court which had convicted the offenders had not included racial motivation as an incriminating factor, claiming that both the offenders and victims were of Indo-European origin. The Supreme Court had quashed the decision but without giving a correct interpretation of the racial dimension of the crime.

32. The case of Tibor Danihel, a young man killed in 1993 during a skinhead attack on members of the Roma community, had been scheduled for review by the Supreme Court on 26 February 1998. Had a final judgement been delivered?

33. There had been reports of police involvement in acts of violence in police stations or public places. Complaints were allegedly ignored or rejected.

34. Members of the Roma minority had reportedly been denied access to public places, restaurants, means of transport and parks. A disproportionate number of Roma students were allegedly placed in special schools for the handicapped. There had also been discrimination in housing, not only by landlords but also by local public bodies which sought to have Roma families evicted. What action did the authorities propose to take to protect the Roma minority and to ensure the vigorous and speedy prosecution and punishment of offenders?

35. Acts of violence had also been perpetrated against Vietnamese students and workers. A Japanese researcher had been attacked because his assailant "had taken him for a Vietnamese". The court had not included racist motivation in its findings.

36. Many non-governmental organizations (NGOs) viewed Act No. 40 of 1993 concerning the acquisition and loss of Czech nationality as discriminatory

since the three conditions for obtaining citizenship were obviously directed against the Roma minority. According to Council of Europe experts, while the three conditions were consistent with European standards in ordinary cases of naturalization, in cases of successor States the criterion of no conviction for the previous five years was discriminatory vis-à-vis former citizens of Czechoslovakia of Slovak origin inasmuch as it was inconsistent with the criterion of proportionality. Although he gathered that the Act had been amended in the meantime and that a different approach was being adopted to its implementation, he felt it should be stressed that denial of citizenship deprived the persons concerned of many of their rights and laid them open to expulsion. In that connection, he quoted draft articles 3, 13.1 and 14 on nationality of natural persons in relation to the succession of States provisionally adopted by the International Law Commission in 1997 (A/52/10). Were there still persons living in the Czech Republic who had not requested or had not obtained citizenship owing to the provisions of Act No. 40 of 1993? What was being done to assist those persons in filing a request for citizenship and thereby clarifying their situation? How many persons were in that situation and what was their legal status?

37. The report contained no information about foreigners living in the Czech Republic although acts of racial discrimination and violence against such individuals had occurred.

38. He stressed the need for ongoing in-depth education and training of judges, police officers, all other persons dealing with matters related to human rights and the population as a whole in the spirit and letter of the Convention.

39. He welcomed the report published by the Government of the Czech Republic in October 1997 on the Situation of the Romani Community in the Czech Republic and on Government Measures Assisting its Integration in Society. The Committee looked forward to hearing about the results of those measures in the next periodic report.

40. Mr. VALENCIA RODRIGUEZ commended the coverage of racial discrimination in Czech legislation, especially in the Constitution and the Charter of Fundamental Rights and Freedoms, and the judicial remedies available to victims of violations of the rights protected by the Convention. Moreover, article 10 of the Constitution gave precedence to international human rights treaties over domestic legislation. He wished to hear of any cases in which the provisions of an international treaty had been invoked before the courts.

41. The Czech Republic was a multi-ethnic, multicultural and multilinguistic society and he noted with satisfaction the statement in paragraph 21 that minority rights were protected by law. He asked whether foreigners resident in the country enjoyed the same protection. He was puzzled by the statement in the same paragraph that enforcement of collective rights on a group basis would conflict with the citizenship principle and asked the delegation for clarification.

42. The provisions of sections 196, 198 and 198a and sections 260 and 261 of the Criminal Code were not fully consistent with the terms of article 4 (a)

and 4 (b) of the Convention. Although domestic legislation need not be a carbon copy of the Convention, it should at least take into account the fundamental purposes of the corresponding article.

43. Article 26 of the Charter concerning the right to work stipulated that different rules could be established by law for foreign citizens. While such distinctions were understandable, he wished to have further information about the criteria applied, particularly in the light of paragraph 106, which stated that the overriding principle in the laws regulating professions and activities was the prohibition of discrimination.

44. Protection of the Roma population was one of the most serious tasks facing the country. He noted that, while the language handicap of Roma children was a barrier to education, the Roma minority had never requested education in its own language. He commended the action being taken by the authorities to encourage Roma education and urged the State Party to keep the Committee informed of developments in that area.

45. Given that Moravians were the largest national minority, he was surprised at the lack of any reference to Moravian culture under the section entitled "Cultural activities of the minorities".

46. Mrs. SADIQ ALI asked for clarification of the statement in article 3 of the Charter of Fundamental Rights and Freedoms that everybody had the right to free choice of his or her nationality. Did nationality in that context mean ethnic, cultural or linguistic allegiance? She also asked the delegation to comment on the stipulation prohibiting any form of influencing that choice and any form of pressure aimed at suppressing one's national identity.

47. The Czech Republic had ratified the European Framework Convention for the Protection of National Minorities in 1997. Which minorities would enjoy protection under the Convention.

48. Had measures falling under article 1, paragraph 4 of the Convention been used on behalf of any vulnerable groups in the Czech Republic?

49. Was it true that no legal provision provided for prosecution of a person who, in the public or private sphere, refused to give employment to a member of the Roma minority even if that person openly admitted that the applicant's ethnic origin was the ground for refusal?

50. Anti-discrimination provisions were missing from the laws governing health care, housing, army service and imprisonment. Moreover, prejudice conducive to racial discrimination in the areas of education, culture and information was not liable to punishment. Cooperation with voluntary associations operating in those areas was weak since there was no public body responsible for compliance with the Convention. She would welcome more information about compliance with article 7 of the Convention.

51. Section 198a of the Criminal Code prescribed punishments for persons who publicly incited to hatred for any nation or race or to limitation of the rights and freedoms of persons belonging to such a nation or race. What was the legal position with regard to the effective restriction of rights or

freedoms or non-public incitement in such cases? In practice, the perpetrators of such crimes were in most cases skinheads or their supporters and the victims were usually Roma, Jews and persons of dark skin. She trusted that the action being taken by the authorities to remedy the situation would be speedy and effective.

52. It was reported that Alexej Pludek, of the Democrat Party, had proposed calculating the amount of children's allowances on the basis of the mothers' education, with university graduates receiving seven times more than women without any education. Most young female Roma, however, had no basic education. He had also declared he wished to "protect society" from what he called the "inadaptable", mentioning the Roma. Such proposals might be considered to be laying the foundations for the crime of genocide.

53. The deepening segregation of the Roma in special schools might be considered a tendency towards apartheid. The Czech Republic did not punish public use of Nazi symbols which skinheads wore on their clothing and bodies; nor did it punish graffiti in public places. The Government should adopt measures to punish such behaviour, as well as the publishers of Fascist magazines. It was the police who first came into contact with situations of crime and were involved in seeking evidence. That many of them reportedly sympathized with skinheads made it less likely that cases of acts committed by skinheads would be turned over to the appropriate authorities and was detrimental to investigations of such acts.

54. The Czech Civil Code did not outlaw racial discrimination in housing, but the situation required such a provision. Cases in which apartment owners tried to get rid of Roma tenants were all too frequent, and could not be tackled by the common tools of the civil court. Would the Government comment on that? The biggest problem faced by social workers was the cultural barrier. Social workers, for the most part white women, had ideas about the best interests of children that were not shared by Roma families, which suffered discrimination on that account. It was reported that their children were frequently taken away from them without any clearly formulated legal reasons and placed in institutional care. Was that correct?

55. The employment situation of the Roma was alarming, with an estimated unemployment rate of 70 or even 80 per cent. The main reason for their failure in the labour market was their poor level of education and skills. Their ability to survive on unemployment benefits was, however, greater than for the rest of the population, as they were used to living in poverty and their living standards were dramatically below average; they were over-represented among those receiving such benefits, which were their main or even sole source of income. Another cause of their high unemployment rate was discrimination by employers. Was it true that some labour offices put anti-Roma clauses into their lists of job qualifications? Discrimination had worsened in 1997 because employers justified the rejection of Roma on the basis of their inadaptability and allegedly bad experience with Roma in the past.

56. Discrimination against the Roma in public places and in the provision of public services had increased in the previous year, without any State intervention and had become commonplace.

57. The number of pre-school classes for Roma children had increased to 66 in 1997-1998, of which 45 were in special schools for mentally or otherwise handicapped children. There were some 658 children in those classes, but about 7,000 Roma children were born each year, meaning that only 10 per cent attended pre-school. Article 3 of the Convention prohibited segregation, which was nonetheless to some extent evident in the schools because of the discrimination against Roma children, although that was not the intent of the measures taken. Some 20 per cent of all Roma children attended the special schools, as opposed to 3 per cent of children from the majority population. A Czech UNICEF Committee report had found that about 42 per cent of all Roma children attended only the special schools, with 58 per cent attending the basic schools, and that about half of all children in the special schools were Roma. Ignorance of the actual statistics was due in part to the reluctance of school employees to ask about a child's racial or ethnic origin. There was also a language handicap. The majority of Roma children did not speak Czech. There were families with no pencils to give their children. Teachers from the basic schools often found it easier to transfer the children to the special schools. There they could be enrolled only in certain vocational training courses, but after graduation they did not receive a standard vocational certificate.

58. In short, conditions were bad for the Roma people. She was glad to hear of improvements, but wished to receive more information on action taken to improve the condition of Roma children.

59. Mr. de GOUTTES asked whether the Government also consulted NGOs, especially Roma associations, in the preparation of the report. It contained a good deal of information on article 5 of the Convention, but was general in nature and mostly concerned the implementation of other United Nations conventions; it was not sufficiently focused on racial discrimination or the situation of minorities.

60. Regarding the penalization of racist acts, there were no provisions in the Criminal Code punishing the refusal to provide goods or services on racial or ethnic grounds, except as indicated in paragraphs 144-145 on consumers and good business practice. More information was needed.

61. He welcomed the statistics provided in paragraphs 35-36 of the report on prosecutions and convictions, as well as the specific examples of prosecutions in paragraphs 37-42. Had there been a sentence in the Tibor Danihel case (paragraph 37)? What were the cases in which the 1990 law prohibiting racist organizations had been applied?

62. According to the report, the minorities most affected by racially motivated malfeasance were the Roma, but also Jews, Blacks, Chinese, Vietnamese and, more rarely, Slovaks, Czechs and foreign students in general. What were the problems faced by people in those categories, and what had been the major incidents involving them? He asked for more information on the Council for Nationalities and its recent recommendations to the Government.

63. The report contained information on various measures taken on behalf of the Roma, but according to the European Roma Rights Center, serious discrimination against them persisted. The Center's report cited

ill-treatment by police, refusal to allow them access to restaurants, pubs and similar establishments, discrimination in employment and education, and the frequent transfer of their children to special schools for the mentally handicapped. They had been subject to discrimination upon the break-up of the former Czechoslovakia, when Roma who had previously held Czechoslovak nationality had been refused Czech nationality; they currently risked being expelled from the country if they committed a crime. There was also apparently discrimination in the judicial domain: complaints by Roma did not give rise to the same police investigations as for other citizens, they were subject to longer periods of pre-trial detention and they were given more severe sentences.

64. In many countries, de facto discrimination against minorities and immigrants was often unconscious on the part of the police and judges; racist attitudes appeared to be commonplace in the behaviour of the police and judicial authorities. Could he have more information? Did, or could, the Government envisage making the declaration under article 14 of the Convention in the near future?

65. Mr. LECHUGA HEVIA said that the delegation had mentioned growing racism against the Roma, who were said to be insufficiently prepared to enter the new Czech society. However, other groups were also subject to discrimination, and that discrimination could be attributed not to the advent of a market economy but to other reasons. Certainly there was an increase in the activities of racist groups, in racist sentiment among the public, and in the number of public figures making racist statements; the phenomenon was quite widespread.

66. There had been some changes in the legislation, and new instructions were being issued to public prosecutors, but such measures were not enough. Judicial proceedings were supposed to be expedited, but that was not happening - certainly not in relation to the seriousness of the cases that had occurred. Investigations into acts of aggression against the Roma were slow. What punishments were being applied in those cases? Four years after the death of Tibor Danihel, the case had still not been solved, nor had that of Tibor Berki, who had been beaten to death in the presence of his family in 1995.

67. There were no laws providing more extensive protection in the areas of housing and employment. Compliance with article 4 of the Convention was not very clear.

68. Mr. Diaconu took the Chair.

69. Mr. van BOVEN said that in the process of becoming a more open society, the Czech Republic had made itself more vulnerable. A matter of concern was the situation of the Roma, who had suffered considerably during the Second World War and still had problems. It was one thing to acknowledge and be aware of the problem; the second step was to make an inventory of all the issues and take action in the light of international human rights standards, including those laid down in the Convention. The Committee would continue to monitor its implementation closely.

70. There were many disturbing references to the situation of the Roma in the press. The European Commission against Racism and Intolerance of the Council of Europe had identified key areas of concern as including the activities of racist groups, especially skinheads; increasing racist incidents directed against Roma in particular, as well as Jews; increased votes for the extreme right, notably the Czech Republican Party; and marked public hostility or mistrust towards minority groups, particularly Roma.

71. The State Party had ratified the Framework Convention for the Protection of National Minorities on 18 December 1997. Countries sometimes made statements upon ratification, mentioning particular groups. What was the status of the Roma in the Czech Republic in the light of that Convention?

72. Another issue, under article 2 of the Convention, was the absence of specific, comprehensive legislation against discrimination based on race and ethnic or national origin. The constitutional provisions in that regard were very general; more specific legislation was needed, especially with regard to housing and employment. Without the legal tools to combat discrimination, the Convention tended to be a dead letter.

73. He was surprised that punitive sanctions for apartheid and other inhuman acts related to racial discrimination were provided for only in time of war. The Government of the Czech Republic should take note of the Committee's General Recommendation XIX (47) which stated that the formal disappearance of apartheid in South Africa did not affect the relevance of article 3 of the Convention in that it continued to apply to all forms of racial segregation.

74. The information on cases of serious racially motivated crimes was welcome. Proceedings relating to the case of Tibor Danihel, whose death in 1993 was prompted by the actions of skinheads, were still pending in 1997. That raised the question of the extent to which the police, prosecuting agencies and the judiciary were expeditious, alert and vigilant in dealing with cases of that sort.

75. Examples of the prohibition of associations and organizations covered by article 4 (b) of the Convention were needed.

76. It seemed that many Roma children were placed in schools for children with learning difficulties. In some cases they then stayed there for the duration of, or much of, their academic life. The Government needed to take measures to help those children overcome their difficulties so that they could attend regular schools.

77. The application of legislation on access to citizenship was having the effect of depriving Roma people of citizenship and thus access to a range of rights and benefits that were enjoyed only by citizens of the Czech Republic. What measures were being taken or envisaged to remedy that situation?

78. With regard to the right to equal access to services intended for use by the general public, paragraph 144 spoke only of consumer protection, which was a different issue. He wondered, therefore, how far article 5 (f) of the Convention was being implemented and if there were examples of court cases and legal remedies in respect of that article.

79. The Convention could not be directly invoked in the courts as it was not self-executing in legal terms. However, since the delegation had stated that, in the event of any conflict or inconsistency between national legislation and the provisions of the Convention, the Convention would prevail, it was of the utmost importance that judges, lawyers and the like be fully conversant with the Convention. To what extent were the provisions of the Convention and the report to the Committee disseminated among interested parties and how far would the Committee's concluding observations be made known so that they could be used for follow-up action?

80. Information was needed on implementation of article 6 of the Convention, giving details of cases of reparation or satisfaction. It would be of particular interest to the Committee to know what measures had been taken to provide reparation to and rehabilitation for the many Roma women who had been victims of the practice of sterilization in the past.

81. There were reports that the Government of the Czech Republic was considering recognizing the competence of the Committee to handle individual complaints, as provided for under article 14 of the Convention. Information should be provided in that regard and as to whether the Government had considered accepting the amendments to article 8, paragraph 6, of the Convention.

82. Mr. NOBEL said that paragraph 15 of the report estimated that people of Roma nationality accounted for approximately 0.3 per cent of the population whereas paragraph 17 stated that the ethnic Roma population by far exceeded the official figure because many Roma had chosen to hide their ethnic origin. That was probably due to the fact that when members of an ethnic group succeeded in integrating into society, they sometimes hid their origins for fear of endangering the status and benefits they had acquired and out of suspicion of persons in authority, such as census officials. Where they had not integrated, they might also be afraid of exposing themselves to further discriminatory measures.

83. The delegation had said that some of the problems of the Roma minority were due to the difficulties they faced in terms of complying with the norms and ways of the majority population. However, it was important to consider whether the difficulties were not of the making of the majority of society rather than the reverse, and to work with minority groups and listen to what they had to say regarding the situation.

84. He could not see how the provisions of section 198 paragraph 1 (a) or (b) of the Criminal Code could protect national or ethnic minorities or fully complied with the terms of the Convention. They should, therefore, be reviewed by the Government.

85. The report referred to skinheads and the fact that typical racial attackers were skinheads or members of a skinhead movement. It was a highly visible movement in Europe with a specific dress code, its own music, slogans and so forth that crossed national boundaries. However, skinheads were basically street fighters. They tended not to produce the racist pamphlets,

tracts and other material themselves, an activity that was left to organizations and associations. Information was needed on the existence of such organized bodies in the Czech Republic.

86. He was concerned at the report of the European Roma Rights Center concerning anti-Roma sentiments among high-ranking politicians. Examples given included the statement by Mr. Miroslav Sládek, the leader of the Republican Party, that the first crime of the Roma was birth and the article written by Senator Klausner in July 1996 in which he had recommended that landlords who had to deal with "large problem families" of the Roma minority should consider moving them out of Prague. Although the Prime Minister and the Minister of the Interior had condemned the article, no disciplinary measures had been taken against such a prominent public official.

87. Paragraphs 35 and 36 of the report showed that there were strikingly few convictions compared to the number of prosecutions for racially motivated crimes.

88. Mr. YUTZIS said the Government of the Czech Republic should do all it could to fill the gap in terms of specific legislation against racial discrimination.

89. He could not help but feel that shades of anti-Roma sentiment and prejudice could be seen in certain parts of the report, attitudes that were not necessarily shared by society as a whole but were those of the persons responsible for drafting the report. Paragraph 188 of the report stated that Roma civic associations tended to be "loose structures controlled by traditional clans and hampered by frequent conflicts among their leaders", which implied that they were disorganized and uncontrolled, an implication that was clearly pejorative. Even more pejorative was the statement in paragraph 135 (f) that although "open racism" was infrequent in elementary schools, findings had shown that Roma children tended to manifest xenophobia and intolerance toward other ethnic groups more frequently than their schoolmates. That promoted a stereotypical image of a Roma child as racist. What investigative methods had led to that conclusion and was it not true that the actions of Roma children could be be attributed to self-defence in the face of a hostile environment?

The meeting rose at 5.50 p.m.